

TAXATION OF NONPROFIT ORGANIZATIONS

CASES AND MATERIALS

THIRD EDITION

JAMES J. FISHMAN

STEPHEN SCHWARZ

FOUNDATION PRESS

CASES AND MATERIALS

TAXATION OF NONPROFIT ORGANIZATIONS

THIRD EDITION

by

JAMES J. FISHMAN

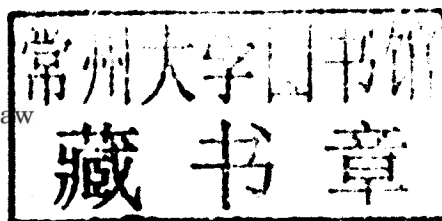
Professor of Law,

Pace University School of Law

STEPHEN SCHWARZ

Professor of Law Emeritus,

University of California, Hastings College of the Law



FOUNDATION PRESS
2010



THOMSON REUTERS™

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

Nothing contained herein is intended or written to be used for the purposes of 1) avoiding penalties imposed under the federal Internal Revenue Code, or 2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

© 2003 FOUNDATION PRESS

© 2006 THOMSON REUTERS/FOUNDATION PRESS

© 2010 By THOMSON REUTERS/FOUNDATION PRESS

1 New York Plaza, 34th Floor

New York, NY 10004

Phone Toll Free 1-877-888-1330

Fax (646) 424-5201

foundation-press.com

Printed in the United States of America

ISBN 978-1-59941-667-0

Mat #40853350

UNIVERSITY CASEBOOK SERIES

EDITORIAL BOARD

ROBERT C. CLARK

DIRECTING EDITOR

Distinguished Service Professor and Austin Wakeman Scott
Professor of Law and Former Dean
Harvard University

DANIEL A. FARBER

Sho Sato Professor of Law and Director, Environmental Law Program
University of California at Berkeley

OWEN M. FISS

Sterling Professor of Law
Yale University

SAMUEL ISSACHAROFF

Bonnie and Richard Reiss Professor of Constitutional Law
New York University

HERMA HILL KAY

Barbara Nachtrieb Armstrong Professor of Law and
Former Dean of the School of Law
University of California, Berkeley

SAUL LEVMORE

Dean and William B. Graham Professor of Law
University of Chicago

THOMAS W. MERRILL

Charles Evans Hughes Professor of Law
Columbia University

ROBERT L. RABIN

A. Calder Mackay Professor of Law
Stanford University

CAROL M. ROSE

Gordon Bradford Tweedy Professor of Law & Organization, Emerita
Yale University
Lohse Chair in Water and Natural Resources
University of Arizona

KATHLEEN M. SULLIVAN

Stanley Morrison Professor of Law and
Former Dean of the School of Law
Stanford University

To Liz, Lisi, Diana, and Sophie

JJF

To F.K.G.

SS

PREFACE

This text has been adapted from the Fourth Edition of our companion casebook, *Nonprofit Organizations: Cases and Materials*. It is offered as an alternative text for J.D. and LL.M courses and seminars that focus primarily on the taxation of charitable and other nonprofit organizations. Before the First Edition of *Nonprofit Organizations* was published in 1995, some law schools offered courses in the field, ranging from global surveys to more specialized tax offerings, but instructors and curricular growth were hindered by a dearth of published teaching materials. Our goal was to help fill the void by crafting a book to ease the burden on experienced teachers and entice newcomers to teach, study and practice in this fascinating and dynamic area.

Over the past two decades, the law of the nonprofit sector emerged from the shadows and became recognized as a distinct legal discipline. Today, the maturity of this field of study is reflected in the increasing number of law schools offering nonprofit organizations courses as well as the publication of several other casebooks. The field has appeal to students and teachers with interests in wide-ranging areas such as corporations, taxation, estate planning, constitutional law, antitrust, law and economics, environmental law, health law, and public interest law. These legal issues are increasingly of interest, we think, because so many lawyers and law students become involved with nonprofit organizations as directors, trustees, members, and volunteers, and in those capacities they are frequently called upon for advice.

With an expanding body of law and such a potentially diverse constituency, each new edition presents a challenge of covering those topics of greatest importance and yet preserving flexibility for instructors with different emphasis and expertise, all while keeping the book to a manageable length. In keeping with this philosophy, our texts have been designed as up-to-date teaching tools adaptable to a wide range of offerings. Based on our collective experience, we continue to believe that the best J.D. level nonprofits courses are “interdisciplinary,” covering both the state law perspective (e.g., formation, governance, and enforcement) as well as federal tax issues. Even in tax-focused courses, students benefit greatly from exposure to the full range of legal issues. But we understand that some instructors prefer to limit coverage to tax issues and teach by the problem method. This version accommodates their needs.

As with its parent, *Taxation of Nonprofit Organizations* includes a wide variety of materials—edited cases, legislative history, excerpts from scholarly articles and books, writings from other disciplines, and authoritative IRS administrative materials. For most topics, it provides extensive authors’ text, notes, questions, bibliographic references for further reading,

and problems for class discussion. To enliven the coverage, the notes and questions frequently refer to the rich array of real world controversies and news reports, offering an opportunity for students to evaluate critically the increasingly publicized underside of the nonprofit sector.

This Third Edition incorporates many new developments occurring during the four-year shelf life of its predecessor, including the enactment of the Pension Protection Act of 2006, the most comprehensive legislation affecting charitable nonprofits since 1969. The IRS also has been busy, ratcheting up its scrutiny of hospitals and universities, redesigning the Form 990 information return, issuing new regulations on the public support tests that enable charities to avoid private foundation status, and expanding its jurisdiction over governance matters that traditionally have been a prerogative of the states. And this revision is more than just an update. Concerned that the barrage of new developments and the authors' voracious appetites were causing the book to gain far too much weight, we revisited every chapter with the goal of pruning wherever possible. Some of the longer cases and notes have been edited, and dated or redundant materials were removed. Although this edition still may have too many details for some (and not enough for others), it is almost 70 pages shorter than its predecessor—no small feat given the long-winded proclivities of the legal and academic professions.

Turning to the specifics of organization and coverage, the book consists of four parts. Part One (Chapter 1), an introduction, bridges theory and practice. It begins by describing the universe of nonprofits and their role in the economy and society, and by addressing the principal theoretical rationales for the nonprofit sector. If the study of nonprofit organizations has serious academic merit, as we believe it does, theoretical questions such as why the nonprofit sector exists should be addressed at an early point and revisited frequently. Chapter 1 also provides a brief history of nonprofit organizations in the United States and introduces the federal tax treatment of charities, which are the dominant presence in the sector. The introductory chapter concludes on a practical note by providing a concise overview of the nontax considerations affecting choice of legal form for a nonprofit organization and an introductory problem to set the stage for the details that follow.

Part Two (Chapters 2–4) is devoted to charitable organizations. Chapter 2 covers the affirmative requirements and operational limitations faced by organizations seeking tax-exempt status as charities under § 501(c)(3), with more abbreviated coverage of state and local tax exemption issues. This edition incorporates a number of important new qualification developments, ranging from the evolving definition of charity, the increasing scrutiny of hospitals and universities by Congress and the IRS, and continuing concerns over excessive compensation and political activities.

Chapter 3 addresses the dynamic issue of commercial activities—their impact on qualification for tax exemption; the unrelated business income tax; and the special challenges and planning opportunities presented by

complex structures such as taxable subsidiaries and joint ventures. Chapter 4 turns to the distinction between private foundations and public charities, first describing the universe of private foundations and grantmaking alternatives, such as donor-advised funds and supporting organizations. It goes on to identify strategies to avoid private foundation status and surveys the regulatory challenges facing organizations unable to escape the private foundation regulatory regime.

Part Three (Chapter 5) is devoted to law and philanthropy from the perspective of donors and fundraisers. It includes a mix of basic and advanced materials on the charitable contributions deduction and planned giving opportunities.

Part Four (Chapter 6) shifts the focus to mutual benefit organizations, such as trade associations, labor unions, social clubs, and fraternal organizations, and surveys some special problems of private membership associations.

To complement the main casebook and this alternative version, we have prepared a separate and completely updated softbound Supplement (Nonprofit Organizations: Statutes, Regulations and Forms), which contains excerpts from the ABA's recently published "third edition" of the Model Nonprofit Corporation Act, the nonprofit corporation laws of several leading jurisdictions, the Uniform Prudent Investor Act, the Uniform Prudent Management of Institutional Funds Act, and selected sections of the Restatements of Trusts and other statutes. The Supplement also includes all relevant sections of the Internal Revenue Code and Treasury Regulations; important IRS forms, such as the redesigned Form 990 information return and the Form 1023 application for § 501(c)(3) exemption; sample articles and bylaws for a nonprofit corporation; a simple charitable trust instrument; and a sample conflict of interest policy. Suggested assignments to Statutes, Regulations and Forms are provided in bold type at the beginning of most sections of the casebook.

As for other matters of style and format, we have edited cases and other original sources freely to make them more accessible to students. Citations and internal cross references in excerpted materials have been deleted without so indicating. Textual omissions are indicated by asterisks, and editorial additions are in brackets. Many footnotes from original sources have been omitted without renumbering those that remain. Our goal was to make the text gender neutral, and we have tried to alternate between masculine and feminine pronouns to represent both sexes. Coverage in this edition is current through May 1, 2010.

This has been a collaborative effort in the best sense, and many who teach, write and practice in the field have graciously offered their advice and encouragement. We owe special thanks to John Simon, who has done so much to nurture the field, for his many helpful insights during the preparation of the First Edition; to Harvey Dale, the founder and director of the National Center on Philanthropy and the Law at New York Universi-

ty School of Law, who has encouraged this project from its incubation stage and offered us the unique opportunity to present our work-in-progress to leading scholars and practitioners at an invitational conference at NYU; and to Bill Hutton, who generously allowed us to adapt problems and colorful characters that he developed and refined over many years. We also are grateful to the other participants in the NYU conference: Bob Boisture, Laura Chisolm, Marion Fremont-Smith, Harvey Goldschmid, Carlyn McCaffrey, Peter Swords and Jill Manny. And thanks too to Rob Atkinson, whose views on the appropriate model for a law school nonprofits course greatly stimulated our thinking; to Miriam Galston for her meticulous editing and valuable substantive comments; and to John Colombo, Mike Klausner, Evelyn Brody and Ellen Aprill for their scholarly contributions to the field and thoughtful suggestions on coverage and content. Any errors or other transgressions, of course, remain those of the authors—and for this version, that means Professor Schwarz, who bears primary responsibility for the tax chapters.

Professor Fishman also wishes to thank the Brooklyn and Pace University Schools of Law, which provided research support; NYU School of Law's National Center on Philanthropy and the Law, which provided access to its philanthropy library; and Kate Fitzpatrick, Brooklyn Law School class of 2009 and Alexandra Campbell-Ferrari, Pace Law School class of 2012, who served as research assistants during the preparation of this edition. Professor Schwarz extends thanks to Hastings College of the Law for its ongoing institutional support; Adele Dorison and Barbara Rosen, for their invaluable assistance as research assistants and editors on earlier editions; and the students in his classes over many years at the University of Florida, NYU, Arizona State, and Hastings (particularly the spring 2010 class), who endured rough early drafts and later helped to improve many of the problems and other materials.

And last but hardly least, we are grateful for the support of our families, friends, and colleagues, and for their understanding of the demands of producing a first edition and keeping it current.

JAMES J. FISHMAN
STEPHEN SCHWARZ

June 2010

ACKNOWLEDGEMENTS

With appreciation, the authors acknowledge the following authors, publishers, and other copyright holders who gave permission to reprint excerpts from their works:

William D. Andrews, *Personal Deductions in an Ideal Income Tax*, 86 *Harvard Law Review* 309, 344–348, 356–358, 371–372, 374–375 (1972). Copyright © 1972 by the Harvard Law Review Association.

Boris I. Bittker and George K. Rahdert, *The Exemption of Nonprofit Organizations from Federal Income Taxation*, 85 *Yale Law Journal* 299, 307–316, 348–357 (1976), reprinted with permission of the Yale Law Journal Company and Fred B. Rothman & Co.

John A. Edie, *First Steps in Starting a Foundation* 6–10, 25–27 (3d ed.). Copyright © 1993 by The Council on Foundations, Inc.

David F. Freeman and The Council on Foundations, *The Handbook on Private Foundations* 1–9, 248–253 (rev. ed. 1991). Copyright © 1991 by The Council on Foundations, Inc.

John W. Gardner, *The Independent Sector*, in *America's Voluntary Spirit* xiii–xv (Brian O'Connell ed., The Foundation Center, 1983). Copyright © 1983 by Brian O'Connell.

Henry Hansmann, *The Rationale for Exempting Nonprofit Organizations from Corporate Income Taxation*, 91 *Yale Law Journal* 54, 72–75 (1981), reprinted by permission of the Yale Law Journal Company and Fred B. Rothman & Co.

Henry Hansmann, *Reforming Nonprofit Corporation Law*, 129 *University of Pennsylvania Law Review* 497, 504–509 (1981), with permission of Fred B. Rothman & Co. Copyright © 1981 by Henry B. Hansmann.

Teresa Odendahl, *Charity Begins at Home: Generosity and Self-Interest Among the Philanthropic Elite* 3–5, 232–240 (1990). Copyright © 1990 by Basic Books, Inc. Reprinted by permission of Basic Books, a division of HarperCollins Publishers, Inc.

Lester M. Salamon, *The Nonprofit Sector: A Primer* 11–13, (2d ed. 1999). Copyright © 1999 by Lester M. Salamon. Published by The Foundation Center, 79 Fifth Avenue, New York, N.Y. 10003.

Lester A. Salamon, *The Rise of the Nonprofit Sector*, *Foreign Affairs*, July/August 1994. Reprinted by permission of Foreign Affairs. Copyright © 1994 by the Council on Foreign Relations, Inc.

John Simon, Harvey Dale & Laura Chisolm, *The Federal Tax Treatment of Charitable Organizations*, in *The Nonprofit Sector: A Research Handbook* (Walter W. Powell & Richard Steinberg, eds., 2d ed. 2006), Yale University Press. Copyright © 2006 by Yale University.

Burton A. Weisbrod, *To Profit or Not to Profit: The Commercial Transformation of the Nonprofit Sector* 1–4 (1999). Reprinted with the permission of Cambridge University Press and Burton A. Weisbrod.

TABLE OF CASES

Principal cases are in bold type. Non-principal cases are in roman type. References are to Pages.

- Alco Gravure, Inc. v. Knapp Foundation, 64 N.Y.2d 458, 490 N.Y.S.2d 116, 479 N.E.2d 752 (N.Y.1985), 39
- Alexander v. "Americans United" Inc., 416 U.S. 752, 94 S.Ct. 2053, 40 L.Ed.2d 518 (1974), 315
- Allen v. Wright, 468 U.S. 737, 104 S.Ct. 3315, 82 L.Ed.2d 556 (1984), 153, 320
- Alumni Ass'n of University of Oregon, Inc. v. Commissioner, T.C. Memo. 1996-63 (U.S.Tax Ct.1996), 407
- American Bar Endowment, United States v., 477 U.S. 105, 106 S.Ct. 2426, 91 L.Ed.2d 89 (1986), 624
- American Campaign Academy v. Commissioner, 92 T.C. 1053 (U.S.Tax Ct.1989), 222
- American College of Physicians, United States v.**, 475 U.S. 834, 106 S.Ct. 1591, 89 L.Ed.2d 841 (1986), **374**
- American Postal Workers Union, AFL-CIO v. United States, 925 F.2d 480, 288 U.S.App. D.C. 249 (D.C.Cir.1991), 402
- American Soc. of Ass'n Executives v. United States, 195 F.3d 47, 338 U.S.App.D.C. 432 (D.C.Cir.1999), 717
- American Soc. of Travel Agents, Inc. v. Blumenthal, 566 F.2d 145, 184 U.S.App.D.C. 253 (D.C.Cir.1977), 321
- Ann Arbor Dog Training Club, Inc. v. Commissioner, 74 T.C. 207 (U.S.Tax Ct.1980), 160
- Associated Master Barbers & Beauticians of America, Inc. v. Commissioner**, 69 T.C. 53 (U.S.Tax Ct.1977), **708**
- Association of Bar of City of New York v. Commissioner, 858 F.2d 876 (2nd Cir. 1988), 299
- Austin v. Michigan Chamber of Commerce, 494 U.S. 652, 110 S.Ct. 1391, 108 L.Ed.2d 652 (1990), 310
- Ballard, United States v., 322 U.S. 78, 64 S.Ct. 882, 88 L.Ed. 1148 (1944), 178
- Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279, 66 S.Ct. 112, 90 L.Ed. 67 (1945), 79
- Big Mama Rag, Inc. v. United States**, 631 F.2d 1030, 203 U.S.App.D.C. 448 (D.C.Cir. 1980), **163**
- Blake v. Commissioner**, 697 F.2d 473 (2nd Cir.1982), **655**
- Blake v. Commissioner, T.C. Memo. 1971-189 (U.S.Tax Ct.1971), 78
- Bluetooth SIG, Inc. v. United States, 2008 WL 312712 (W.D.Wash.2008), 708
- Board of Directors of Rotary Intern. v. Rotary Club of Duarte, 481 U.S. 537, 107 S.Ct. 1940, 95 L.Ed.2d 474 (1987), 735
- Board of Revision of Taxes of City of Philadelphia v. American Bd. of Internal Medicine, 154 Pa.Cmwth. 204, 623 A.2d 418 (Pa.Cmwth.1993), 205
- Bob Jones University v. Simon, 416 U.S. 725, 94 S.Ct. 2038, 40 L.Ed.2d 496 (1974), 133, 315
- Bob Jones University v. United States**, 461 U.S. 574, 103 S.Ct. 2017, 76 L.Ed.2d 157 (1983), **132**
- Bob Jones University Museum and Gallery, Inc. v. Commissioner, T.C. Memo. 1996-247 (U.S.Tax Ct.1996), 158
- Boy Scouts of America v. Dale, 530 U.S. 640, 120 S.Ct. 2446, 147 L.Ed.2d 554 (2000), 735
- Branch Ministries v. Rossotti**, 211 F.3d 137, 341 U.S.App.D.C. 166 (D.C.Cir.2000), **289**
- Brown, Commissioner v., 380 U.S. 563, 85 S.Ct. 1162, 14 L.Ed.2d 75 (1965), 364, 421
- Bubbling Well Church of Universal Love, Inc. v. Commissioner, 74 T.C. 531 (U.S.Tax Ct.1980), 215
- Calhoun Academy v. Commissioner, 94 T.C. 284 (U.S.Tax Ct.1990), 153
- Cammarano v. United States, 358 U.S. 498, 79 S.Ct. 524, 3 L.Ed.2d 462 (1959), 716
- Camps Newfound/Owatonna, Inc. v. Town of Harrison, Me., 520 U.S. 564, 117 S.Ct. 1590, 137 L.Ed.2d 852 (1997), 206
- Caracci v. Commissioner, 456 F.3d 444 (5th Cir.2006), 239
- Caracci v. Commissioner, 118 T.C. 379 (U.S.Tax Ct.2002), 239
- C.F. Mueller Co. v. Commissioner, 190 F.2d 120 (3rd Cir.1951), 340, 362
- Christian Echoes Nat. Ministry, Inc. v. United States**, 470 F.2d 849 (10th Cir. 1972), **247**

- Christian Legal Society v. Walker, 453 F.3d 853 (7th Cir.2006), 737
- Christian Legal Society Chapter of University of California v. Kane, 2005 WL 850864 (N.D.Cal.2005), 737
- Church of Ethereal Joy v. Commissioner, 83 T.C. 20 (U.S.Tax Ct.1984), 190
- Church of Scientology of California v. Commissioner**, 823 F.2d 1310 (9th Cir. 1987), **208**
- Church of the Chosen People (North American Panarchate) v. United States, 548 F.Supp. 1247 (D.Minn.1982), 191
- Citizens United v. Federal Election Com'n, — U.S. —, 130 S.Ct. 876 (2010), 717
- City of (see name of city)**
- Clarence LaBelle Post No. 217, Veterans of Foreign Wars of United States v. U.S., 580 F.2d 270 (8th Cir.1978), 365
- Cockerline Memorial Fund v. Commissioner, 86 T.C. 53 (U.S.Tax Ct.1986), 525
- Consumer Credit Counseling Service of Alabama, Inc. v. U.S., 1978 WL 4548 (D.D.C. 1978), 130
- CRSO v. Commissioner, 128 T.C. 153 (U.S.Tax Ct.2007), 358
- Davis v. United States, 495 U.S. 472, 110 S.Ct. 2014, 109 L.Ed.2d 457 (1990), 622
- Disabled American Veterans v. United States, 227 Ct.Cl. 474, 650 F.2d 1178 (Ct.Cl. 1981), 407
- Doe v. Kamehameha Schools/Bernice Pauahi Bishop Estate, 470 F.3d 827 (9th Cir. 2006), 157
- Doe v. Kamehameha Schools/Bernice Pauahi Bishop Estate, 416 F.3d 1025 (9th Cir. 2005), 157
- Downtown Hosp. Ass'n v. Tennessee State Bd. of Equalization, 760 S.W.2d 954 (Tenn.Ct.App.1988), 101
- Dubenstein, Commissioner v., 363 U.S. 278, 80 S.Ct. 1190, 4 L.Ed.2d 1218 (1960), 624
- Eastern Kentucky Welfare Rights Organization v. Shultz, 370 F.Supp. 325 (D.D.C. 1973), 89
- Ecclesiastical Order of Ism of Am, Inc. v. Commissioner, 80 T.C. 833 (U.S.Tax Ct.1983), 190
- Education Athletic Ass'n, Inc. v. Commissioner, T.C. Memo. 1999-75 (U.S.Tax Ct.1999), 401
- Emerson Institute v. United States, 356 F.2d 824, 123 U.S.App.D.C. 71 (D.C.Cir.1966), 35
- Faulkner v. Jones, 51 F.3d 440 (4th Cir. 1995), 156
- Federal Election Com'n v. Beaumont, 539 U.S. 146, 123 S.Ct. 2200, 156 L.Ed.2d 179 (2003), 310
- Federal Election Com'n v. Massachusetts Citizens for Life, Inc., 479 U.S. 238, 107 S.Ct. 616, 93 L.Ed.2d 539 (1986), 310
- Fifth-Third Union Trust Co. v. Commissioner, 56 F.2d 767 (6th Cir.1932), 35
- Foundation of Human Understanding v. Commissioner, 88 T.C. 1341 (U.S.Tax Ct.1987), 316, 511
- Founding Church of Scientology v. United States, 188 Ct.Cl. 490, 412 F.2d 1197 (Ct. Cl.1969), 215
- Frank v. Ivy Club, 120 N.J. 73, 576 A.2d 241 (N.J.1990), 735
- Fulani v. Bentsen, 35 F.3d 49 (2nd Cir.1994), 321
- Fulani v. Brady, 935 F.2d 1324, 290 U.S.App. D.C. 205 (D.C.Cir.1991), 321
- Fulani v. League of Women Voters Educ. Fund, 882 F.2d 621 (2nd Cir.1989), 321
- Fund for the Study of Economic Growth and Tax Reform v. I.R.S., 161 F.3d 755, 333 U.S.App.D.C. 205 (D.C.Cir.1998), 246
- Geisinger Health Plan v. Commissioner, 30 F.3d 494 (3rd Cir.1994), 99
- Geisinger Health Plan v. Commissioner, 100 T.C. 394 (U.S.Tax Ct.1993), 99
- Geisinger Health Plan v. Commissioner, 985 F.2d 1210 (3rd Cir.1993), 91
- German Society of Maryland, Inc. v. Commissioner, 80 T.C. 741 (U.S.Tax Ct.1983), 567
- Ginsberg v. Commissioner, 46 T.C. 47 (Tax Ct.1966), 221
- Goldsboro Art League, Inc. v. Commissioner**, 75 T.C. 337 (U.S.Tax Ct.1980), **342**
- Gratz v. Bollinger, 539 U.S. 244, 123 S.Ct. 2411, 156 L.Ed.2d 257 (2003), 156
- Green v. Connally, 330 F.Supp. 1150 (D.D.C. 1971), 132
- Greenacre Foundation v. United States, 762 F.2d 965 (Fed.Cir.1985), 536
- Grutter v. Bollinger, 539 U.S. 306, 123 S.Ct. 2325, 156 L.Ed.2d 304 (2003), 156
- Guest v. Commissioner, 77 T.C. 9 (U.S.Tax Ct.1981), 668
- Guide Intern. Corp. v. United States**, 948 F.2d 360 (7th Cir.1991), **705**
- Haswell v. United States, 205 Ct.Cl. 421, 500 F.2d 1133 (Ct.Cl.1974), 247
- HCSC-Laundry v. United States, 450 U.S. 1, 101 S.Ct. 836, 67 L.Ed.2d 1 (1981), 357
- Help Children, Inc. v. Commissioner, 28 T.C. 1128 (Tax Ct.1957), 356
- Henry E. and Nancy Horton Bartels Trust ex rel. Cornell University v. United States, 2009 WL 1931150 (Fed.Cl.2009), 428
- Henry E. & Nancy Horton Bartels Trust For Ben. of University of New Haven v. United States**, 209 F.3d 147 (2nd Cir.2000), **422**

- Hernandez v. Commissioner, 490 U.S. 680, 109 S.Ct. 2136, 104 L.Ed.2d 766 (1989), 215, 643
- Holy Spirit Ass'n for Unification v. Tax Commission of City of New York**, 55 N.Y.2d 512, 450 N.Y.S.2d 292, 435 N.E.2d 662 (N.Y.1982), **178**
- Hope School v. United States, 612 F.2d 298 (7th Cir.1980), 365
- Hospital Utilization Project v. Commonwealth, 507 Pa. 1, 487 A.2d 1306 (Pa. 1985), 204
- Houston Lawyer Referral Service, Inc. v. Commissioner, 69 T.C. 570 (U.S.Tax Ct.1978), 316
- Howell v. County Bd. of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah 1994), 204
- Hutchinson Baseball Enterprises, Inc. v. Commissioner**, 696 F.2d 757 (10th Cir. 1982), **194**
- IHC Health Plans, Inc. v. Commissioner**, 325 F.3d 1188 (10th Cir.2003), **91**
- In re (see name of party)**
- Jockey Club v. United States, 133 Ct.Cl. 787, 137 F.Supp. 419 (Ct.Cl.1956), 713
- Julius M. Israel Lodge of B'nai B'rith No. 2113 v. Commissioner, 98 F.3d 190 (5th Cir.1996), 401
- Kuch, United States v., 288 F.Supp. 439 (D.D.C 1968), 191
- Lapham Foundation, Inc. v. Commissioner, 389 F.3d 606 (6th Cir.2004), 524
- League of Women Voters of United States v. U.S., 148 Ct.Cl. 561, 180 F.Supp. 379 (Ct. Cl.1960), 246
- Lefkowitz v. Lebensfeld, 68 A.D.2d 488, 417 N.Y.S.2d 715 (N.Y.A.D. 1 Dept.1979), 39
- Levy v. Levy, 33 N.Y. 97 (N.Y.1865), 22
- Louisiana Credit Union League v. United States, 693 F.2d 525 (5th Cir.1982), 365
- Madden v. Commissioner**, T.C. Memo. 1997-395 (U.S.Tax Ct.1997), **542**
- Marker v. Shultz, 485 F.2d 1003, 158 U.S.App.D.C. 224 (D.C.Cir.1973), 704
- McGlotten v. Connally**, 338 F.Supp. 448 (D.D.C.1972), **727**
- Medical Center Hosp. of Vermont, Inc. v. City of Burlington, 152 Vt. 611, 566 A.2d 1352 (Vt.1989), 101, 203
- MIB, Inc. v. Commissioner, 734 F.2d 71 (1st Cir.1984), 714, 784
- MIB, Inc. v. Commissioner, 80 T.C. 438 (U.S.Tax Ct.1983), 714, 784
- Mississippi State University Alumni, Inc. v. Commissioner, T.C. Memo. 1997-397 (U.S.Tax Ct.1997), 407
- Mobile Republican Assembly v. United States, 353 F.3d 1357 (11th Cir.2003), 307
- Moline Properties v. Commissioner, 319 U.S. 436, 63 S.Ct. 1132, 87 L.Ed. 1499 (1943), 432
- National Alliance v. United States, 710 F.2d 868, 228 U.S.App.D.C. 357 (D.C.Cir.1983), 174
- National Ass'n of Postal Sup'rs v. United States, 944 F.2d 859 (Fed.Cir.1991), 402
- National Carbide Corp. v. Commissioner, 336 U.S. 422, 69 S.Ct. 726, 93 L.Ed. 779 (1949), 433
- National Collegiate Athletic Ass'n v. Commissioner**, 914 F.2d 1417 (10th Cir. 1990), **384**
- National Federation of Republican Assemblies v. United States, 218 F.Supp.2d 1300 (S.D.Ala.2002), 307
- Nationalist Movement v. Commissioner, 102 T.C. 558 (U.S.Tax Ct.1994), 174
- National League of Postmasters of United States v. Commissioner, 86 F.3d 59 (4th Cir.1996), 402
- New York State Club Ass'n, Inc. v. City of New York, 487 U.S. 1, 108 S.Ct. 2225, 101 L.Ed.2d 1 (1988), 735
- Orange County Agr. Soc., Inc. v. Commissioner, 893 F.2d 529 (2nd Cir.1990), 357, 373, 433
- Oregon State University Alumni Ass'n, Inc. v. Commissioner, T.C. Memo. 1996-34 (U.S.Tax Ct.1996), 407
- Pittsburgh, City of v. Board of Property Assessment, Appeals and Review, 129 Pa. Cmwlth. 69, 564 A.2d 1026 (Pa.Cmwlth. 1989), 203
- Plumstead Theatre Society, Inc. v. Commissioner, 74 T.C. 1324 (U.S.Tax Ct.1980), 440
- Podberesky v. Kirwan, 38 F.3d 147 (4th Cir. 1994), 156
- Portland Golf Club v. Commissioner, 497 U.S. 154, 110 S.Ct. 2780, 111 L.Ed.2d 126 (1990), 465
- Presbyterian and Reformed Pub. Co. v. Commissioner**, 743 F.2d 148 (3rd Cir. 1984), **346**
- Provena Covenant Medical Center v. Department of Revenue, 236 Ill.2d 368 (Ill.2010), 100
- Rancho Santa Fe Ass'n v. United States, 589 F.Supp. 54 (S.D.Cal.1984), 698
- Redlands Surgical Services v. Commissioner, 113 T.C. 47 (U.S.Tax Ct.1999), 451
- Regan v. Taxation With Representation of Washington**, 461 U.S. 540, 103 S.Ct. 1997, 76 L.Ed.2d 129 (1983), **258**, 740

- Rensselaer Polytechnic Institute v. Commissioner**, 732 F.2d 1058 (2nd Cir. 1984), **412**
- Rice v. Cayetano, 528 U.S. 495, 120 S.Ct. 1044, 145 L.Ed.2d 1007 (2000), 157
- Rideout Hospital Foundation, Inc. v. County of Yuba, 10 Cal.Rptr.2d 141 (Cal.App. 3 Dist.1992), 204
- Roberts v. United States Jaycees, 468 U.S. 609, 104 S.Ct. 3244, 82 L.Ed.2d 462 (1984), 735
- Roche's Beach v. Commissioner, 96 F.2d 776 (2nd Cir.1938), 340, 362
- Rockefeller v. Commissioner, 676 F.2d 35 (2nd Cir.1982), 623
- Runyon v. McCrary, 427 U.S. 160, 96 S.Ct. 2586, 49 L.Ed.2d 415 (1976), 157
- Rust v. Sullivan, 500 U.S. 173, 111 S.Ct. 1759, 114 L.Ed.2d 233 (1991), 265
- San Francisco Infant School, Inc. v. Commissioner, 69 T.C. 957 (U.S.Tax Ct.1978), 160
- School Dist. of City of Erie v. Hamot Medical Center of City of Erie, 144 Pa.Cmwlth. 668, 602 A.2d 407 (Pa.Cmwlth.1992), 205
- Seasongood v. Commissioner, 227 F.2d 907 (6th Cir.1955), 247
- Service Bolt & Nut Co. Profit Sharing Trust v. Commissioner**, 78 T.C. 812 (U.S.Tax Ct.1982), **459**
- Sierra Club Inc. v. Commissioner, 86 F.3d 1526 (9th Cir.1996), 407
- Simon v. Eastern Kentucky Welfare Rights Organization, 426 U.S. 26, 96 S.Ct. 1917, 48 L.Ed.2d 450 (1976), 320
- Sklar v. Commissioner**, 549 F.3d 1252 (9th Cir.2008), **632**
- Slee v. Commissioner, 42 F.2d 184 (2nd Cir. 1930), 244
- Sound Health Association v. Commissioner, 71 T.C. 158 (U.S.Tax Ct.1978), 90
- Special Commissioners of Income Tax v. Pemsel, 22 Q.B.D. 296, 1888 WL 9918 (CA 1888), 84
- St. David's Health Care System v. United States, 349 F.3d 232 (5th Cir.2003), 451
- St. David's Health Care System v. United States, 2002 WL 1335230 (W.D.Tex.2002), 451
- Stichting Pensioenfonds Voor de Gezondheid, Geestelijke en Maatschappelijke Belangen v. United States**, 129 F.3d 195, 327 U.S.App.D.C. 112 (D.C.Cir. 1997), **699**
- Sun Myung Moon, United States v., 718 F.2d 1210 (2nd Cir.1983), 178
- Taxation with Representation of Washington v. Blumenthal, 1981 WL 21149 (D.C.Cir. 1981), 258
- Taxation With Representation of Washington v. Regan, 676 F.2d 715, 219 U.S.App.D.C. 117 (D.C.Cir.1982), 258
- Trinidad v. Sagrada Orden de Predicadores, etc., 263 U.S. 578, 44 S.Ct. 204, 68 L.Ed. 458 (1924), 60, 340, 361
- Troy, In re, 364 Mass. 15, 306 N.E.2d 203 (Mass.1973), 49
- Underwriters' Laboratories v. Commissioner, 135 F.2d 371 (7th Cir.1943), 193
- Unitary Mission Church of Long Island v. Commissioner, 74 T.C. 507 (U.S.Tax Ct.1980), 215
- United Cancer Council, Inc. v. Commissioner**, 165 F.3d 1173 (7th Cir.1999), **222**
- United States v. ——— (see opposing party)**
- United States Catholic Conference (USCC), In re**, 885 F.2d 1020 (2nd Cir. 1989), **321**
- Universal Life Church, Inc. v. Commissioner, 83 T.C. 292 (U.S.Tax Ct.1984), 190
- Universal Life Church, Inc. v. United States, 372 F.Supp. 770 (E.D.Cal.1974), 190
- Utah County, By and Through County Bd. of Equalization of Utah County v. Intermountain Health Care, Inc., 709 P.2d 265 (Utah 1985), 99, 204
- Vidal v. Girard's Ex'rs, 43 U.S. 127, 2 How. 127, 11 L.Ed. 205 (1844), 22
- Vigilant Hose Co. of Emmitsburg v. United States, 87 A.F.T.R.2d 2001-2398, 2001 WL 710603 (D.Md.2001), 401
- Virginia, United States v., 518 U.S. 515, 116 S.Ct. 2264, 135 L.Ed.2d 735 (1996), 156
- Walz v. Tax Commission of City of New York, 397 U.S. 664, 90 S.Ct. 1409, 25 L.Ed.2d 697 (1970), 177, 207
- Warren M. Goodspeed Scholarship Fund v. Commissioner, 70 T.C. 515 (U.S.Tax Ct.1978), 525
- Washington, City of v. Board of Assessment Appeals of Washington County, 550 Pa. 175, 704 A.2d 120 (Pa.1997), 205
- Wayne Baseball, Inc. v. Commissioner, T.C. Memo. 1999-304 (U.S.Tax Ct.1999), 199
- Winokur v. Commissioner, 90 T.C. 733 (U.S.Tax Ct.1988), 668
- Wright v. Regan, 1982 WL 521102 (D.C.Cir. 1982), 151
- Zemurray Foundation v. United States, 687 F.2d 97 (5th Cir.1982), 536
- Zeta Beta Tau Fraternity, Inc. v. Commissioner**, 87 T.C. 421 (U.S.Tax Ct.1986), **720**

TABLE OF STATUTES

UNITED STATES

UNITED STATES CONSTITUTION

	This Work Page
Amendments	
1	157
1	160
1	177
1	257
1	258
1	265
1	277
1	307
1	310
1	311
1	644
1	716
1	734
1	735
5	258
15	157

UNITED STATES CODE ANNOTATED

2 U.S.C.A.—The Congress

Sec.	This Work Page
431—455	309

26 U.S.C.A.—Internal Revenue Code

Sec.	This Work Page
1(e)	372
1(f)(3)	631
11(b)	372
42	118
68	613
72	682
74(b)	566
102	624
105	554
117	567
117(a)	566
132	235
139	128
139(c)	128
145	59
162	220
162	235
162	566
162	714
162(e)	244
162(e)	308

UNITED STATES CODE ANNOTATED

26 U.S.C.A.—Internal Revenue Code

Sec.	This Work Page
162(e)	704
162(e)	714
162(e)	715
162(e)	716
162(e)	718
162(e)(1)	715
162(e)(2)	715
162(e)(3)	715
162(e)(4)(A)	715
162(e)(4)(B)	715
162(e)(5)(B)(i)	715
162(e)(5)(B)(ii)	715
162(e)(5)(C)	715
168(h)(6)	463
170	59
170	79
170	81
170	258
170	505
170	595
170	615
170	616
170	622
170	631
170	645
170	648
170	652
170	673
170(a)(2)	623
170(a)(2)	648
170(a)(3)	654
170(a)(3)	668
170(b)	418
170(b)	419
170(b)	645
170(b)(1)(A)	472
170(b)(1)(A)	502
170(b)(1)(A)	623
170(b)(1)(A)	646
170(b)(1)(A)(i)	184
170(b)(1)(A)(i)	490
170(b)(1)(A)(i)	511
170(b)(1)(A)(i)—(b)(1)(A)(vi)	511
170(b)(1)(A)(i)—(b)(1)(A)(vi)	540
170(b)(1)(A)(ii)	430
170(b)(1)(A)(ii)	431
170(b)(1)(A)(ii)	511
170(b)(1)(A)(iii)	512
170(b)(1)(A)(iv)	512
170(b)(1)(A)(v)	512
170(b)(1)(A)(vi)	74
170(b)(1)(A)(vi)	399
170(b)(1)(A)(vi)	511

UNITED STATES CODE ANNOTATED

26 U.S.C.A.—Internal Revenue Code

Sec.	This Work Page
170(b)(1)(A)(vi)	512
170(b)(1)(A)(vi)	513
170(b)(1)(A)(vi)	515
170(b)(1)(A)(vi)	516
170(b)(1)(A)(vi)	517
170(b)(1)(A)(vi)	518
170(b)(1)(A)(vi)	519
170(b)(1)(A)(vi)	530
170(b)(1)(A)(vi)	588
170(b)(1)(A)(vi)	594
170(b)(1)(A)(vi)	675
170(b)(1)(A)(vii)	496
170(b)(1)(A)(vii)	505
170(b)(1)(B)	472
170(b)(1)(B)	646
170(b)(1)(C)	646
170(b)(1)(C)	647
170(b)(1)(C)	654
170(b)(1)(C)	667
170(b)(1)(C)(iii)	647
170(b)(1)(C)(iv)	647
170(b)(1)(D)	472
170(b)(1)(D)	647
170(b)(1)(D)	654
170(b)(1)(E)	671
170(B)(1)(e)(iii)	539
170(b)(1)(F)	646
170(b)(1)(F)(ii)	505
170(b)(1)(F)(iii)	505
170(b)(1)(F)(iii)	506
170(b)(2)	648
170(c)	615
170(c)	616
170(c)	652
170(c)(1)	512
170(c)(1)	615
170(c)(2)	315
170(c)(2)	317
170(c)(2)	615
170(c)(2)(A)	616
170(c)(2)(B)	25
170(c)(2)(B)	563
170(c)(3)	615
170(c)(3)	739
170(c)(3)(5)	688
170(c)(4)	615
170(c)(4)	720
170(c)(5)	616
170(d)(1)	645
170(d)(1)	646
170(d)(2)	648
170(e)(1)	654
170(e)(1)	659
170(e)(1)	665
170(e)(1)(A)	654
170(e)(1)(A)	660
170(e)(1)(A)	665
170(e)(1)(B)	663
170(e)(1)(B)(i)	647
170(e)(1)(B)(i)(II)	664

UNITED STATES CODE ANNOTATED

26 U.S.C.A.—Internal Revenue Code

Sec.	This Work Page
170(e)(1)(B)(ii)	473
170(e)(1)(B)(ii)	647
170(e)(1)(B)(iii)	665
170(e)(1)(B)(iv)	667
170(e)(3)	660
170(e)(5)	529
170(e)(5)	647
170(e)(5)	654
170(e)(7)	654
170(e)(7)	664
170(e)(7)(B)(ii)	664
170(e)(7)(D)	664
170(e)(7)(D)	672
170(e)(B)(ii)	654
170(f)(2)(A)	678
170(f)(2)(A)	682
170(f)(3)	668
170(f)(3)(B)(i)	682
170(f)(3)(B)(ii)	668
170(f)(3)(B)(iii)	669
170(f)(4)	682
170(f)(8)	648
170(f)(8)	649
170(f)(8)	651
170(f)(8)	665
170(f)(8)(B)	649
170(f)(8)(B)	650
170(f)(8)(C)	650
170(f)(8)(D)	650
170(f)(11)(A)(i)	672
170(f)(11)(D)	672
170(f)(11)(E)	672
170(f)(12)	654
170(f)(12)(A)(i)	664
170(f)(12)(B)	664
170(f)(12)(B)	665
170(f)(12)(B)(ii)	665
170(f)(12)(C)	664
170(f)(12)(E)	664
170(f)(15)(A)	667
170(f)(15)(B)	667
170(f)(16)	654
170(f)(16)	666
170(f)(16)(B)	666
170(f)(16)(C)	666
170(f)(16)(D)	666
170(f)(17)	537
170(f)(18)	499
170(f)(18)(A)	500
170(f)(18)(B)	504
170(g)	623
170(h)	669
170(h)(2)	669
170(h)(3)	670
170(h)(4)(A)	670
170(i)	622
170(j)	622
170(m)	665
170(m)(2)	665
170(O)	654