

# *Understanding*

## **NONPROFIT AND TAX EXEMPT ORGANIZATIONS**

---



Nicholas P. Cafardi  
Jaclyn Fabean Cherry

# **UNDERSTANDING NONPROFIT AND TAX EXEMPT ORGANIZATIONS**

**Nicholas P. Cafardi**

*Dean Emeritus and Professor of Law  
Duquesne University School of Law*

**Jaclyn Fabean Cherry**

*Professor and Associate Director, Clinical Legal Education  
Duquesne University School of Law*

ISBN: 978-1-4224-7356-6

**Library of Congress Cataloging-in-Publication Data**

Cafardi, Nicholas P.

Understanding nonprofit and tax exempt organizations / Nicholas P. Cafardi, Jaclyn A. Cherry.

p. cm.

Includes index.

ISBN 0-8205-6088-X (soft cover)

1. Nonprofit organizations--Taxation--Law and legislation--United States. 2. Charitable uses, trusts, and foundations--Taxation--Law and legislation--United States. 3. Nonprofit organizations--Law and legislation--United States. 4. Charitable uses, trusts, and foundations--Law and legislation--United States. I. Cherry, Jaclyn Fabean. II. Title.

KF6449.C34 2006

343.7306'6--dc22

2005029076

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

LexisNexis and the Knowledge Burst logo are trademarks of Reed Elsevier Properties Inc, used under license. Matthew Bender is a registered trademark of Matthew Bender Properties Inc.

Copyright © 2006 Matthew Bender & Company, Inc., a member of the LexisNexis Group.  
All Rights Reserved.

No copyright is claimed in the text of statutes, regulations, and excerpts from court opinions quoted within this work. Permission to copy material exceeding fair use, 17 U.S.C. § 107, may be licensed for a fee of 10¢ per page per copy from the Copyright Clearance Center, 222 Rosewood Drive, Danvers, Mass. 01923, telephone (978) 750-8400.

ISBN#: 0-8205-6088-X

Editorial Offices

744 Broad Street, Newark, NJ 07102 (973) 820-2000

201 Mission St., San Francisco, CA 94105-1831 (415) 908-3200

701 East Water Street, Charlottesville, VA 22902-7587 (434) 972-7600

[www.lexis.com](http://www.lexis.com)

## ***The Understanding Series***

Many professors recommend these concise yet comprehensive *Understanding* treatises to their students for additional insight:

Administrative Law	Insurance Law
Antitrust and Its Economic Implications	Intellectual Property
Bankruptcy	International Criminal Law
Capital Punishment Law	International Law
Civil Procedure	Islamic Law
Conflict of Laws	Juvenile Law
Constitutional Law	Labor Law
Contracts	The Law of Terrorism
Copyright Law	Lawyers' Ethics
Corporate Law	Local Government
Corporate Taxation	Modern Real Estate Transactions
Criminal Law	Partnership and LLC Taxation
Criminal Procedure: Investigation	Patent Law
Criminal Procedure: Adjudication	Products Liability Law
Disability Law	Property Law
Employment Discrimination	Remedies
Employment Law	Sales and Leases of Goods
Environmental Law	Secured Transactions
Evidence	Securities Law
Family Law	Torts
Federal Courts and Jurisdiction	Trademark Law
Federal Income Taxation	Trusts and Estates
The First Amendment	White Collar Crime
International Business and Financial Transactions	
Law of Zoning and Land Use Controls	
Negotiable Instruments and Payment Systems	
Nonprofit and Tax Exempt Organizations	

Visit your campus bookstore to order any of these titles. Information about all LexisNexis publications is available at [www.lexisnexis.com/lawschool](http://www.lexisnexis.com/lawschool).

## DEDICATION

*To the memory of Nicholas P. Cafardi, Sr.  
&  
Antoinette R. Cafardi*

—NPC

*To my parents, Jack and Ann Fabean.*

—JFC

# PREFACE

*Understanding Nonprofit and Tax Exempt Organizations* is a guide for the law student or practitioner who is looking for an overview of the nonprofit sector. This text will explain the many types of tax exempt organizations; the rules, regulations and limitations imposed on tax exempt organizations by the courts, the IRS and the Regulations; the charitable contribution and fundraising issues affecting tax exempt organizations; the unrelated business income taxes, excise taxes and intermediate sanctions imposed on tax exempt organizations; and the rules regarding private foundations.

The text introduces the nonprofit sector by discussing the relevant law in general, as nonprofits are governed by state law. Next, tax exempt organizations are discussed, by first giving the reader the background on where such organizations fit in the nonprofit sector; why the organizations are given preferential tax treatment; what form these organizations take; and how such organizations are governed and dissolved.

An analysis of tax exempt organizations would not be complete without detailed information on the various rules, regulations and tests they must adhere to in order to obtain or retain their tax exempt status. This text provides detailed explanations of these, as well as the consequences for failure to comply.

The tax exempt sector is populated with numerous types of organizations. This text explains the major types of tax exempt organizations. Highlighted are the primary categories of IRC Section 501(c)(3) organizations: religious organizations, educational organizations, healthcare organizations and arts organizations. Also treated are all the other types of Section 501(c)(3) organizations: charitable, scientific, public safety testing, literary, organizations that foster amateur sports and organizations for the prevention of cruelty to children and animals. After explaining Section 501(c)(3) organizations in a comprehensive manner, the text turns to the other areas of major tax exempt activity: Section 501(c)(4) social welfare organizations, Section 501(c)(5) labor organizations, Section 501(c)(6) trade associations, Section 501(c)(7) social clubs and Section 501(c)(8) fraternal benefit organizations. There is also a chapter on a rather new type of tax exempt organization, the Section 527 political organization.

Finally the text ends with explanations of charitable solicitation, fundraising, the unrelated business income tax, and private foundations. The final chapter is a guide to the IRS procedures for obtaining and maintaining tax exempt status.

Cases, the Internal Revenue Code (IRC), and the Treasury Regulations (the Regulations) are used to discuss and explain the issues relevant to tax

exempt organizations. When the IRC and the Regulations are cited, very often the language used is a paraphrase or a direct quote; however, for the ease of reading, quotations have been omitted. Also unless stated otherwise, the statutory and regulatory cites are from the current (as of the date of publication) version of these documents.

While it is important to remember that Revenue Rulings, Revenue Procedures, General Counsel Memoranda, Technical Advice Memoranda and Private Letter Rulings may not be used as legal precedent, they are useful to illustrate the IRS's position and have been used as such in this text.

The authors would like to thank the law school students and practitioners who have chosen this book in their study of nonprofit and tax exempt organizations. It is an exciting and growing area of the law that has a tremendous impact on our society.

The authors would like to thank Erin Powers, Esquire, without whom this text would not have been completed. Erin's unending enthusiasm, professionalism, patience, attention to detail and unwillingness to accept anything but the best is greatly appreciated. We would also like to acknowledge her assistance on the rough drafts of several of the chapters of this text.

We would like to thank our Research Assistants, Daniel Syphard and Joyce Howard for their help, and Tammy Schall and Jeff Mansell for their proofreading assistance. Thank you to all of our students in our "tax exempt organizations" classes and "economic & community development law clinic" classes, for their continuing input on the subject matter. Thank you to Phyllis Karczewski for her support and assistance throughout this project.

Thank you to Heather Dean, Cristina Gegenschatz and Christopher Van Cleve of LexisNexis Law School Publications, Matthew Bender & Co., Inc.

Thank you to our families for their love and support.

Thank you to Professor Joseph Sabino Mistick (JFC).

# TABLE OF CONTENTS

---

	<b>Page</b>
<b>Preface</b> . . . . .	v
<b>Chapter 1 INTRODUCTION TO TAX EXEMPT ORGANIZATIONS</b>	
§ 1.01 INTRODUCTION . . . . .	1
§ 1.02 CATEGORIES OF ORGANIZATIONS IN THIRD SECTOR . . . . .	1
[A] Nonprofit Organizations . . . . .	2
[B] Tax Exempt Organizations . . . . .	3
[C] Charitable Organizations . . . . .	5
[D] Private Foundations . . . . .	6
§ 1.03 CONCLUSION . . . . .	8
<b>Chapter 2 STRUCTURING A NONPROFIT ORGANIZATION</b>	
§ 2.01 INTRODUCTION . . . . .	9
§ 2.02 RATIONALES . . . . .	9
[A] Historical . . . . .	9
[B] Contract Failure . . . . .	9
[C] Government's Inability to Respond . . . . .	10
[D] Societal & Political Innovation . . . . .	10
[E] Protection of Freedom . . . . .	11
[F] Creation of Cultural Goods . . . . .	11
[G] Social & Ethnic Associations . . . . .	12
§ 2.03 STRUCTURE CHOICES . . . . .	12
[A] Unincorporated Associations . . . . .	13
[B] Charitable Trusts . . . . .	13
[C] Nonprofit Corporations . . . . .	15
[1] Historical Development . . . . .	15
[2] Defining Nonprofit Corporations . . . . .	15



	<b>Page</b>
[3] Formalities of a Nonprofit Corporation . . . . .	16
[4] Model Nonprofit Corporation Acts . . . . .	16
[5] Formation . . . . .	17
[a] Filing Articles of Incorporation . . . . .	17
[b] Drafting Bylaws . . . . .	18
[6] Purpose and Powers . . . . .	19
[a] Conforming to State Public Policy . . . . .	19
[b] Conforming to State Non-Commercial Purposes . . . . .	21
[c] Conforming to State Definitions of Charity . . . . .	21
§ 2.04 TAX EXEMPT STATUS . . . . .	22
§ 2.05 STATES' ROLE IN CHOICE OF STRUCTURE . . . . .	22
 <b>Chapter 3 GOVERNANCE OF NONPROFIT ORGANIZATIONS</b>	
§ 3.01 INTRODUCTION TO GOVERNANCE . . . . .	25
[A] Unincorporated Association Governance . . . . .	25
[B] Trust Governance . . . . .	25
[C] Nonprofit Corporation Governance . . . . .	25
§ 3.02 MANAGING THE NONPROFIT . . . . .	26
§ 3.03 FIDUCIARY DUTIES . . . . .	27
[A] Duty of Care . . . . .	27
[1] Relying on Information . . . . .	27
[2] Business Judgment Rule . . . . .	28
[3] Trust Standard . . . . .	29
[4] Corporate Standard . . . . .	29
[B] Duty of Loyalty . . . . .	30
[1] Generally . . . . .	30
[2] Conflicts of Interest . . . . .	31
[3] Corporate Opportunity Doctrine . . . . .	31
[4] Applying the Duty of Loyalty . . . . .	32
[C] Duty of Obedience . . . . .	33
§ 3.04 ENFORCEMENT . . . . .	35

**Chapter 4 DISSOLVING A NONPROFIT ORGANIZATION**

§ 4.01	INTRODUCTION . . . . .	37
§ 4.02	DISPOSITION OF ASSETS . . . . .	38
	[A] Public Benefit vs. Mutual Benefit . . . . .	38
	[B] Charitable Trusts . . . . .	40
§ 4.03	CONVERSIONS OF NONPROFIT ORGANIZATIONS . . . . .	42
	[A] Health Maintenance Organizations . . . . .	42
	[B] Hospitals . . . . .	43
	[C] Blue Cross . . . . .	43
	[D] Structure . . . . .	43
§ 4.04	OTHER RESTRUCTURING . . . . .	44
§ 4.05	ANTITRUST AND NONPROFITS . . . . .	45
	[A] Generally . . . . .	45
	[B] Health Care Organizations . . . . .	47
	[C] Educational Organizations . . . . .	49
	[D] Damages & Liability . . . . .	50

**Chapter 5 RATIONALES FOR TAX EXEMPTION**

§ 5.01	INTRODUCTION . . . . .	51
§ 5.02	PUBLIC BENEFIT THEORY . . . . .	51
§ 5.03	PLURALISM THEORY . . . . .	53
§ 5.04	SUBSIDY THEORY . . . . .	54
§ 5.05	INCOME MEASUREMENT THEORY . . . . .	55
§ 5.06	CAPITAL SUBSIDY THEORY . . . . .	56
§ 5.07	DONATIVE THEORY . . . . .	57
§ 5.08	RATIONALES FOR TRADE ASSOCIATIONS, SOCIAL CLUBS & FRATERNAL BENEFIT ORGANIZATIONS . . . . .	58
	[A] Labor & Trade Associations . . . . .	58
	[B] Social Clubs & Fraternal Benefit Organizations . . . . .	58
§ 5.09	ADDITIONAL THEORIES . . . . .	59
	[A] Historical Theory . . . . .	59

	<b>Page</b>
[B] Double Taxation or Immorality Theory . . . . .	59
[C] Lobbying Theory . . . . .	60
§ 5.10 ADDITIONAL BENEFITS OF FEDERAL TAX EXEMPTION . . . . .	60
[A] Tax Deductible Gifts . . . . .	60
[B] State & Local Income Tax Exemption . . . . .	60
[C] Property Tax Exemption . . . . .	60
 <b>Chapter 6 IRS TESTS FOR TAX EXEMPTION</b>	
§ 6.01 INTRODUCTION . . . . .	63
§ 6.02 ORGANIZATIONAL TEST . . . . .	63
§ 6.03 OPERATIONAL TEST . . . . .	65
[A] Primary Purpose . . . . .	66
[B] Commercial Activities . . . . .	67
[C] Private Benefit . . . . .	69
§ 6.04 PRIVATE INUREMENT TEST . . . . .	70
[A] Overlap of Control and Benefit . . . . .	70
[B] How Inurement Occurs . . . . .	71
[C] Improper Valuation . . . . .	72
[D] Private Inurement vs. Private Benefit . . . . .	73
§ 6.05 POLITICAL ACTIVITIES TEST . . . . .	74
[A] Limitations on Lobbying . . . . .	75
[1] Defining Legislation . . . . .	76
[2] Defining Substantial Part . . . . .	76
[3] Section 501(h) Election . . . . .	78
[B] Restrictions on Electioneering . . . . .	81
[C] Additional Regulations of Political Activity . . . . .	83
[D] Constitutional Issues . . . . .	83
§ 6.06 EXCESS BENEFIT TRANSACTIONS & INTERMEDIATE SANCTIONS . . . . .	84

**Chapter 7 COURT IMPOSED LIMITS ON TAX EXEMPT ORGANIZATIONS**

§ 7.01 INTRODUCTION . . . . .	87
-------------------------------	----

	<b>Page</b>
§ 7.02 ILLEGALITY & PUBLIC POLICY DOCTRINES . . . .	87
[A] Illegality Doctrine . . . . .	88
[B] Public Policy Doctrine . . . . .	89
§ 7.03 THE COMMERCIALITY DOCTRINE . . . . .	91
[A] Origins of the Doctrine . . . . .	91
[B] Applying the Doctrine . . . . .	93
[C] For-Profit Comparison Standard . . . . .	95
[D] Publishing Houses . . . . .	96
[E] Conclusion . . . . .	98

## **Chapter 8 RELIGIOUS ORGANIZATIONS & CHURCHES**

§ 8.01 INTRODUCTION . . . . .	101
§ 8.02 RELIGIOUS ORGANIZATIONS . . . . .	101
[A] Defining Religion . . . . .	101
[B] Applying the Operational Test . . . . .	103
[C] Communal Living . . . . .	105
§ 8.03 CHURCHES . . . . .	105
[A] Defining Churches . . . . .	105
[1] Fourteen Point Test . . . . .	106
[2] Associational Test . . . . .	108
[B] Qualifying as a Church for IRS Purposes . . . .	109
[C] Benefits of Church Status for IRS Purposes . . .	112
§ 8.04 CONVENTIONS OR ASSOCIATIONS OF CHURCHES . . . . .	113
§ 8.05 GROUP RULING . . . . .	113
§ 8.06 INTEGRATED AUXILIARIES OF CHURCHES . . . .	114
§ 8.07 APOSTOLIC ORGANIZATIONS . . . . .	115
§ 8.08 CHURCHES & POLITICAL ACTIVITY . . . . .	116
§ 8.09 CHURCH AUDIT PROCEDURES ACT . . . . .	119
§ 8.10 SPECIAL ISSUES FOR CHURCHES . . . . .	120
[A] Legal Structure . . . . .	120
[B] Liability in Church Organizations . . . . .	121
[1] Church Practices . . . . .	121
[2] Parent & Subordinate Liability . . . . .	122

	<b>Page</b>
[C] Church Property Issues . . . . .	123
§ 8.11 CONSTITUTIONAL CONSIDERATIONS . . . . .	124
 <b>Chapter 9 EDUCATIONAL ORGANIZATIONS</b>	
§ 9.01 INTRODUCTION . . . . .	127
§ 9.02 FORMAL VS. INFORMAL EDUCATIONAL ORGANIZATIONS . . . . .	129
[A] Formal Educational Organizations . . . . .	129
[1] Introduction . . . . .	129
[2] Guidelines & Recordkeeping Requirements . . . . .	130
[3] Applying Tests for Tax Exemption . . . . .	132
[4] Private Schools . . . . .	133
[B] Informal Educational Organizations . . . . .	135
§ 9.03 FUNDING . . . . .	138
[A] New Funding Sources . . . . .	138
[B] Investment Vehicles . . . . .	140
§ 9.04 RIGHTS OF STUDENTS . . . . .	141
[A] Suspension . . . . .	141
[B] Privacy . . . . .	142
 <b>Chapter 10 HEALTHCARE ORGANIZATIONS</b>	
§ 10.01 INTRODUCTION TO HOSPITALS . . . . .	143
[A] Indigent Care & Charity Standard . . . . .	143
[B] Community Benefit Standard . . . . .	144
§ 10.02 MULTI-CORPORATE FORM . . . . .	146
§ 10.03 INTEGRAL PART TEST . . . . .	147
§ 10.04 HOSPITAL CONVERSIONS & PRIVATE INUREMENT . . . . .	150
§ 10.05 HOSPITAL JOINT VENTURES . . . . .	152
[A] Hospital-Physician Joint Ventures . . . . .	152
[B] Physician Recruitment & Acquisition of Physician Practices . . . . .	154
[C] Integrated Delivery Systems . . . . .	155

	<b>Page</b>
[D] Hospital-Hospital Joint Ventures . . . . .	155
[E] Shared Services Organizations . . . . .	159
§ 10.06 HOMES FOR THE AGED . . . . .	161
§ 10.07 HEALTH MAINTENANCE ORGANIZATIONS . . . . .	164
§ 10.08 MEDICAL RESEARCH ORGANIZATIONS . . . . .	166

## **Chapter 11 ARTS ORGANIZATIONS**

§ 11.01 INTRODUCTION . . . . .	169
§ 11.02 SCOPE OF ARTS ORGANIZATIONS . . . . .	170
[A] Art Schools . . . . .	170
[B] Music . . . . .	171
[C] Galleries . . . . .	171
[D] Museums . . . . .	172
[E] Theaters . . . . .	173
[F] Performing Arts Groups . . . . .	176
§ 11.03 CULTURAL ARTS DISTRICTS . . . . .	176

## **Chapter 12 OTHER IRC SECTION 501(c)(3) ORGANIZATIONS**

§ 12.01 INTRODUCTION . . . . .	179
§ 12.02 TAX EXEMPT CATEGORIES . . . . .	179
§ 12.03 RELIEF OF POOR & DISTRESSED OR UNDERPRIVILEGED . . . . .	180
[A] Relief of the Poor . . . . .	180
[B] Public Interest Law Firms . . . . .	180
§ 12.04 LESSENING GOVERNMENT'S BURDEN . . . . .	182
§ 12.05 PROMOTION OF SOCIAL WELFARE . . . . .	183
§ 12.06 SCIENTIFIC ORGANIZATIONS . . . . .	184
§ 12.07 TESTING FOR PUBLIC SAFETY . . . . .	186
§ 12.08 LITERARY ORGANIZATIONS . . . . .	186
§ 12.09 NATIONAL & INTERNATIONAL AMATEUR SPORTS ORGANIZATIONS . . . . .	187
§ 12.10 PREVENTION OF CRUELTY TO CHILDREN & ANIMALS . . . . .	188

	<b>Page</b>
§ 12.11 PROTECTION OF ENVIRONMENT . . . . .	189
§ 12.12 ECONOMIC & COMMUNITY DEVELOPMENT & LOW INCOME HOUSING . . . . .	189
 <b>Chapter 13 IRC SECTION 501(c)(4): SOCIAL WELFARE ORGANIZATIONS</b>	
§ 13.01 INTRODUCTION . . . . .	191
§ 13.02 APPLYING TESTS FOR TAX EXEMPTION . . . . .	192
§ 13.03 DEFINING SOCIAL WELFARE . . . . .	193
§ 13.04 COMMUNITY BENEFIT . . . . .	194
[A] Generally . . . . .	195
[B] Homeowners' Associations . . . . .	196
[1] Generally . . . . .	196
[2] IRC Section 528 . . . . .	199
§ 13.05 RELATIONSHIP BETWEEN SECTION 501(c)(4) ORGANIZATIONS & SECTION 501(c)(3) ORGANIZATIONS . . . . .	200
§ 13.06 SECTION 501(c)(4) & FEDERAL ELECTION CAMPAIGN ACT . . . . .	202
§ 13.07 LOCAL ASSOCIATIONS OF EMPLOYEES . . . . .	202
 <b>Chapter 14 OTHER TAX EXEMPT ORGANIZATIONS</b>	
§ 14.01 INTRODUCTION . . . . .	205
§ 14.02 RATIONALES . . . . .	205
§ 14.03 SECTION 501(c)(2) ORGANIZATIONS: TITLE HOLDING COMPANIES . . . . .	206
§ 14.04 SECTION 501(c)(5) ORGANIZATIONS: LABOR, AGRICULTURE & HORTICULTURE ORGANIZATIONS . . . . .	206
[A] Generally . . . . .	206
[B] Labor Organizations . . . . .	207
[1] Savings Plans . . . . .	207
[2] Pension Plans . . . . .	208
[3] Political Activities . . . . .	210
[C] Agricultural & Horticultural Organizations . . . . .	211

	<b>Page</b>
§ 14.05 SECTION 501(c)(6) ORGANIZATIONS: BUSINESS LEAGUES & TRADE ASSOCIATIONS . . . . .	212
[A] Requirement Not To Conduct a Business for Profit . . . . .	213
[B] Line of Business Requirement . . . . .	214
[C] Membership . . . . .	214
[D] Trade Shows . . . . .	215
[E] Political Activities . . . . .	216
[F] Antitrust Regulations . . . . .	217
§ 14.06 SECTION 501(c)(7) ORGANIZATIONS: SOCIAL CLUBS . . . . .	217
[A] Organizational & Operational Requirements . . .	218
[B] Taxation . . . . .	220
[C] Rights of Association & Anti-Discrimination Requirements . . . . .	221
§ 14.07 SECTION 501(c)(8) ORGANIZATIONS: FRATERNAL BENEFIT ASSOCIATIONS . . . . .	222
[A] Organizational & Operational Requirements . . .	222
[B] Taxation . . . . .	223
[C] Discrimination . . . . .	223
§ 14.08 SECTION 501(c)(10) ORGANIZATIONS: DOMESTIC FRATERNAL ORGANIZATIONS . . . . .	224
§ 14.09 SECTION 501(c)(19) ORGANIZATIONS: VETERANS ORGANIZATIONS . . . . .	224
§ 14.10 SECTION 501(m) ORGANIZATIONS: COMMERCIAL TYPE INSURERS . . . . .	225
§ 14.11 OTHER MUTUAL BENEFIT ORGANIZATIONS . . . .	226
§ 14.12 ISSUES INVOLVING VOLUNTARY MEMBERSHIP ASSOCIATIONS . . . . .	226
[A] Membership as a Contractual Right . . . . .	226
[B] Membership as a Property Right . . . . .	227
[C] Court Examination of Membership Decisions . . . . .	227
[D] Voluntary Associations & Freedom of Association . . . . .	229
[E] Exercising State-Like Powers . . . . .	230
[F] Judicial Intervention into Church Disputes . . .	230



## **Chapter 15 IRC SECTION 527: POLITICAL ORGANIZATIONS**

§ 15.01	INTRODUCTION . . . . .	231
§ 15.02	DEFINING A POLITICAL ORGANIZATION . . . . .	232
§ 15.03	ORGANIZATIONAL & OPERATIONAL TESTS . . . . .	232
§ 15.04	DETERMINING TAXATION . . . . .	234
§ 15.05	NEWSLETTER FUNDS . . . . .	234
§ 15.06	SEGREGATED FUNDS . . . . .	235
§ 15.07	THE SECTION 527(f) TAX . . . . .	237
§ 15.08	FILING & REPORTING REQUIREMENTS . . . . .	238

## **Chapter 16 UNRELATED BUSINESS INCOME TAX**

§ 16.01	INTRODUCTION . . . . .	241
§ 16.02	DEFINING UNRELATED BUSINESS INCOME . . . . .	243
	[A] Trade or Business . . . . .	243
	[B] Fragmentation Rule . . . . .	246
	[C] Regularly Carried On . . . . .	246
	[D] Substantially Unrelated . . . . .	249
§ 16.03	TAX IMPACT OF UNRELATED BUSINESS INCOME . . . . .	252
§ 16.04	PASSIVE INCOME MODIFICATIONS . . . . .	253
	[A] Mailing Lists . . . . .	254
	[B] Affinity Cards . . . . .	255
	[C] Rental Income . . . . .	256
	[D] Capital Gains or Losses . . . . .	257
	[E] Research Income . . . . .	257
	[F] Revenue from Controlled Organizations . . . . .	257
	[G] A Special Exception . . . . .	258
	[H] Commercial Insurance Activity . . . . .	258
	[I] Membership Dues . . . . .	258
§ 16.05	PARTNERSHIP INCOME . . . . .	259
§ 16.06	DEBT-FINANCED INCOME . . . . .	260
§ 16.07	ADDITIONAL EXCEPTIONS . . . . .	265