
CHAPTER ONE

Definition of and Rationales for Tax-Exempt Organizations

*§ 1.1 Definition of *Nonprofit*
Organization 3

*§ 1.2 Definition of *Tax-Exempt*
Organization 3

*§ 1.3 Tax Exempt Organizations Law
Philosophy 4

*§ 1.4 Political Philosophy Rationale 4

*§ 1.1 DEFINITION OF *NONPROFIT* ORGANIZATION

*p. 4, *second complete paragraph*. Delete last sentence.

*p. 4, *third complete paragraph*. Move n. 3 to end of last sentence of paragraph; renumber as n. 4.

*p. 4, *third complete paragraph*. Renumber n. 4 to n. 3.

*p. 4, *second complete paragraph*. Insert n. 2 in place of former n. 3.

*p. 5, *second complete paragraph*. Delete last sentence.

*p. 5. Insert as third complete paragraph:

In addition to the prohibition on private inurement, several state nonprofit corporation acts require the nonprofit entity to devote its profits to ends that are beneficial to society or the public, such as purposes that are arts promotion, agricultural, athletic, beneficial, benevolent, cemetery, charitable, civic, cultural, debt management, educational, eleemosynary, fire control, fraternal, health promotion, horticultural, literary, musical, mutual improvement, natural resources protection, patriotic, political, professional, religious, research, scientific, and/or social.

§ 1.2 DEFINITION OF *TAX-EXEMPT* ORGANIZATION

*p. 8, *first complete paragraph*. Insert as third sentence:

DEFINITION OF AND RATIONALES FOR TAX-EXEMPT ORGANIZATIONS

Thus, in a private letter ruling, the IRS wrote that “[e]xemption from federal income taxation is not a right, it is a matter of legislative grace that is strictly construed.”^{24.1}

***p. 9, n. 38, first paragraph, last sentence. Delete and substitute:**

The staff of the Joint Committee on Taxation estimated that, for the federal government’s fiscal years 2008–2012, the tax expenditure for the income tax charitable contribution deduction will be \$264 billion, of which \$35.9 billion is in connection with the deduction for gifts to educational institutions and \$35.9 billion is for gifts to health care organizations (Estimates of Federal Tax Expenditures for Fiscal Years 2008–2012 (JCS-2-08)).

***p. 9, n. 38. Insert as second paragraph:**

The Joint Committee on Taxation has changed its approach for the identification and classification of tax law provisions as tax expenditures, with goals of improving the utility of tax expenditure analysis and reemphasizing its neutrality. The committee issued an extensive report, on May 12, 2008, that stated that tax expenditure analysis “can and should serve as an effective and neutral analytic tool for policymakers in their consideration of individual tax proposals or larger tax reforms” (A Reconsideration of Tax Expenditure Analysis (JCX-37-08)). This report formally presented the committee’s “new paradigm” for tax expenditures classification (as does the report referenced in the preceding paragraph, dated October 31, 2008), by which these expenditures are now divided into *tax subsidies* and *tax-induced structural distortions*; tax subsidies are divided into three subcategories, one being *social spending*. The charitable contribution deduction is a social spending tax subsidy.

***p. 9, n. 38, last paragraph. Insert as last sentences:**

Under the new Joint Committee staff approach, however, tax exemption for credit unions (see § 19.7) is treated as a tax subsidy, in the subcategory of *business synthetic spending* (this tax expenditure currently is \$7.9 billion). Also, exceptions to the rules for the taxation of unrelated business income (see §§ 24.6, 24.7) are now business synthetic spending tax subsidies.

§ 1.3 TAX EXEMPT ORGANIZATIONS LAW PHILOSOPHY

***p. 10, first complete paragraph, third line. Delete *has very* and insert *however, has*.**

§ 1.4 POLITICAL PHILOSOPHY RATIONALE

***p. 19, last line. Insert note following *subsidy*:**

^{101.1}Cf. *supra* note 38, second paragraph.

***p. 21, second line. Insert *and those who fund it* following *sector*.**

* 24.1. Priv. Ltr. Rul. 200830028, citing *New Dynamics Found. v. United States*, 2006-1 U.S.T.C. ¶ 50,286 (Ct. Fed. Cl. 2006).