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Foundation or Public Charity

The tax reform bill passed by the House of Representatives (H.R. 13270) includes provisions of far-ranging significance for organizations that are tax exempt under Section 501(c)(3), the section of the Internal Revenue Code that pertains to schools, colleges, foundations, scientific and scholarly societies, and similar organizations. In a peculiar and unsatisfactory effort to define foundations by a process of exclusion, all Section 501(c)(3) organizations are divided into two classes. One class includes four strictly defined types of organizations that are collectively considered "public charities." All others are called foundations. Because the Act increases incentives to contribute to schools, colleges, churches, and charities, and punishes foundations—those that operate for the public benefit as well as those whose abuses the Congress has properly wanted to curb (*Science*, 4 July and 15 August)—it becomes of great importance to an organization whether it be classed as a "foundation" or as a "public charity." Except for the demeaning label, the latter category will be much more desirable for many organizations.

Most scientific associations, such as the AAAS, should qualify as public charities, but there is uncertainty on the point, and some of the major scientific and professional membership societies are likely to be treated as private foundations. Also apparently classed as foundations are institutions, such as the Institute for Advanced Study, that are educational in fact but that do not have regularly announced classes and curricula.

The penalties for being classified as a foundation would be severe: a tax of 7.5 percent on investment income; major new restrictions on activities; and eligibility to receive grants from foundations only if the foundation making the grant exercises much stricter surveillance than is required for grants to universities or other "public charities" and makes "full and detailed reports" to the Secretary of the Treasury.

If the House provisions become law, they will reduce the usable income, reduce the ability to secure grants and gifts, and reduce the freedom and flexibility of a group of institutions that are distinguished for their research and for their leadership in advanced education: Woods Hole, the Institute for Advanced Study, the Carnegie Institution, the Brookings Institution, the Wistar Institute, the Institute for Advanced Study in the Behavioral Sciences, and others.

The provisions may not become law. The Secretary of the Treasury has already told the Senate Committee that the House bill "goes too far in taxing foundations," and that a tax to raise revenue from the foundations cannot be justified if their tax-exempt status is justified. He proposed, instead, a 2-percent "supervisory tax" which would be used to support an audit program by the Internal Revenue Service. The terminology here is important; a "user fee," as the House once called it, may be justified, where a "tax" is not, and would be less subject to the danger of later escalation. Other changes should be made. Some of the House-version restrictions on grant-making foundations are too sweeping, and the definition of a foundation needs to be clarified.

After the Senate has acted, a compromise between the House and Senate bills will be worked out. A better compromise can be expected if the senators, especially the members of the Senate Committee on Finance, are informed about the damage the House version would do to foundations and to the research institutes and institutes for advanced study that are likely to be treated as foundations under the House definition. Now is the time to give them that information.—DAEL WOLFFLE