

SUBTITLE A. INCOME TAXES
CHAPTER 1. NORMAL TAXES AND SURTAXES
SUBCHAPTER F. EXEMPT ORGANIZATIONS
PART II. PRIVATE FOUNDATIONS

IRC Sec. 509

Sec. 509. Private foundation defined.

(a) General rule. For purposes of this title, the term "private foundation" means a domestic or foreign organization described in section 501(c)(3) [26 USCS § 501(c)(3)] other than--

(1) an organization described in section 170(b)(1)(A) [26 USCS § 170(b)(1)(A)] (other than in clauses (vii) and (viii));

(2) an organization which--

(A) normally receives more than one-third of its support in each taxable year from any combination of--

(i) gifts, grants, contributions, or membership fees, and

(ii) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513 [26 USCS § 513]), not including such receipts from any person, or from any bureau or similar agency of a governmental unit (as described in section 170(c)(1) [26 USCS § 170(c)(1)]), in any taxable year to the extent such receipts exceed the greater of \$ 5,000 or 1 percent of the organization's support in such taxable year,

from persons other than disqualified persons (as defined in section 4946 [26 USCS § 4946]) with respect to the organization, from governmental units described in section 170(c)(1) [26 USCS § 170(c)(1)], or from organizations described in section 170(b)(1)(A) [26 USCS § 170(b)(1)(A)] (other than in clauses (vii) and (viii)), and

(B) normally receives not more than one-third of its support in each taxable year from the sum of--

(i) gross investment income (as defined in subsection (e)) and

(ii) the excess (if any) of the amount of the unrelated business taxable income (as defined in section 512 [26 USCS § 512]) over the amount of the tax imposed by section 511 [26 USCS § 511];

(3) an organization which--

(A) is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in paragraph (1) or (2),

(B) is operated, supervised, or controlled by or in connection with one or more organizations described in paragraph (1) or (2), and

(C) is not controlled directly or indirectly by one or more disqualified persons (as defined in section 4946 [26 USCS § 4946]) other than foundation managers and other than one or more organizations described in paragraph (1) or (2); and

(4) an organization which is organized and operated exclusively for testing for public safety.

For purposes of paragraph (3), an organization described in paragraph (2) shall be deemed to include an organization described in section 501(c)(4), (5), or (6) [26 USCS § 501(c)(4), (5), or (6)] which would be described in paragraph (2) if it were an organization described in section 501(c)(3) [26 USCS § 501(c)(3)].

(b) Continuation of private foundation status. For purposes of this title, if an organization is a private foundation (within the meaning of subsection (a)) on October 9, 1969, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after October 9, 1969, or after such subsequent date, unless its status as such is terminated under section 507 [[26 USCS § 507](#)].

(c) Status of organization after termination of private foundation status. For purposes of this part [[26 USCS §§ 507](#) et seq.], an organization the status of which as a private foundation is terminated under section 507 [[26 USCS § 507](#)] shall (except as provided in section 507(b)(2) [[26 USCS § 507\(b\)\(2\)](#)]) be treated as an organization created on the day after the date of such termination.

(d) Definition of support. For purposes of this part and chapter 42 [[26 USCS §§ 507](#) et seq. and [4940](#) et seq.], the term "support" includes (but is not limited to)--

- (1) gifts, grants, contributions, or membership fees,
- (2) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in any activity which is not an unrelated trade or business (within the meaning of section 513 [[26 USCS § 513](#)]),
- (3) net income from unrelated business activities, whether or not such activities are carried on regularly as a trade or business,
- (4) gross investment income (as defined in subsection (e)),
- (5) tax revenues levied for the benefit of an organization and either paid to or expended on behalf of such organization, and
- (6) the value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in section 170(c)(1) [[26 USCS § 170\(c\)\(1\)](#)] to an organization without charge.

Such term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset, or the value of exemption from any Federal, State, or local tax or any similar benefit.

(e) Definition of gross investment income. For purposes of subsection (d), the term "gross investment income" means the gross amount of income from interest, dividends, payments with respect to securities loans (as defined in section 512(a)(5) [[26 USCS § 512\(a\)\(5\)](#)]), rents, and royalties, but not including any such income to the extent included in computing the tax imposed by section 511 [[26 USCS § 511](#)].