

CHAPTER 634

PRIVATE FOUNDATIONS AND CHARITABLE TRUSTS

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634.1 Applicability.

This chapter shall apply only to trusts which are private foundations as defined in section 509 of the Internal Revenue Code, charitable trusts as described in section 4947(a) (1) of the Internal Revenue Code, or split-interest trusts as described in section 4947(a) (2) of the Internal Revenue Code. With respect to any such trust created after December 31, 1969, this chapter shall apply from such trust's creation. With respect to any such trust created before January 1, 1970, this chapter shall apply only to such trust's federal taxable years beginning after December 31, 1971.

[C73, 75, 77, 79, 81, §634.1]

634.2 Statutory provisions as part of the trust.

The trust instrument of each trust to which this chapter applies shall be deemed to contain provisions prohibiting the trustee from:

1. Engaging in any act of self-dealing, as defined in section 4941 (d) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4941 (a) of the Internal Revenue Code;
2. Retaining any excess business holdings, as defined in section 4943 (c) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4943 (a) of the Internal Revenue Code;
3. Making any investments which would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of section 4944 of the Internal Revenue Code, so as to give rise to any liability for the tax imposed by section 4944 (a) of the Internal Revenue Code; and
4. Making any taxable expenditures, as defined in section 4945 (d) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4945 (a) of the Internal Revenue Code.

However, this section shall not apply either to those split-interest trusts or to amounts thereof which are not subject to the prohibitions applicable to private foundations by reason of the provisions of section 4947 of the Internal Revenue Code.

[C73, 75, 77, 79, 81, §634.2]

634.3 Distribution to avoid tax liability.

The trust instrument of each trust to which this chapter applies, except split-interest trusts, shall be deemed to contain a provision requiring the trustee to distribute for the purposes specified in the trust instrument for each taxable year of the trust amounts at least sufficient to avoid liability for the tax imposed by section 4942 (a) of the Internal Revenue Code.

[C73, 75, 77, 79, 81, §634.3]

634.4 Limitations.

Nothing in this chapter shall impair the rights and powers of the courts or the attorney general of this state with respect to any trust.

[C73, 75, 77, 79, 81, §634.4]

634.5 Internal Revenue Code defined.

All references to sections of the Internal Revenue Code mean the Internal Revenue Code as defined in section 422.3.

[C73, 75, 77, 79, 81, §634.5]

84 Acts, ch 1305, §41

634.6 Statutory exception in trust.

Nothing in this chapter shall limit the power of a person who creates a trust after July 1, 1971, or the power of a person who has retained or has been granted the right to amend a trust created before July 1, 1971, to include a specific provision in the trust instrument or an amendment to the trust instrument as the case may be, which provides that some or all of the provisions of sections 634.2 and 634.3 shall have no application to such trust.

[C73, 75, 77, 79, 81, §634.6]

634.7 Public grants by private foundations or trusts.

A grant, by a trust organized and funded prior to January 1, 1992, to which this chapter applies, to the state of Iowa, or a political subdivision, or agency of the state or political subdivision, for purposes of economic development, shall be regarded as a charitable contribution if made prior to January 1, 1994.

92 Acts, ch 1244, §48