
Legal Aspects of Charitable Trusts and Foundations by Luis Kutner

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Legal Aspects of Charitable Trusts and Foundations. BY LUIS KUTNER. Chicago: Commerce Clearing House, Inc., 1970. Pp. 442. \$17.50.

Luis Kutner describes his book as a guide for philanthropoids—those who are charged with the administration of charitable funds. The book is to serve as a general guide for attorneys, banks, and corporations in the drafting of charitable trust instruments, as well as calling the attention of the legal profession to the major problems of charitable trusts and foundations. Also included is a current analysis of charitable trusts and foundations. The author has met his objective well with a detailed work on this timely subject.

Although the author did not intend the work to be a treatise on the Internal Revenue Code and Regulations, his frequent references to the 1969 Tax Reform Act lead to the conclusion that the only effective control of charitable trusts and foundations is that exercised by the Internal Revenue Service. Luis Kutner's book is a literary culmination of the intense activity of the past decade concerning abuses in charitable trusts and foundations.

The author begins with a detailed introduction of why his book is necessary—the inadequacy of information available to those charged with the responsibility of organizing, administering, and maintaining charitable trusts and foundations. His introduction is an excellent summary of the reasons why Congress felt it necessary to regulate the activities of charitable trusts and foundations. Prior to the 1969 Tax Reform Act contributors had been taking advantage of opportunities to profit from their gifts, and charities were encouraging donors to seek those advantages. The social and economic values of charitable giving and philanthropy have developed over the years in a rather loose and unregulated fashion with no one really wanting to interfere with the scheme of giving, lest the donor react to the interference by reducing the amount of his gifts. Certainly the charities, as well as their beneficiaries, have a mutual concern and responsibility to police charitable trusts and foundations so that the abuses described in the Patman report, which is extensively quoted by the author, would be corrected without the necessity of Congressional action. Typically, Congress overreacted. In fact there is great concern that the 1969 Tax Reform Act will substantially affect the amounts given to charity and, thus, the utilization of those funds by charities, notably private foundations.

The understanding of any subject requires a knowledge of its history and development. Kutner provides a sufficiently detailed summary to assist the reader in understanding the problems which faced Congress. Although the author intends generally to concern himself with all the legal aspects of charity and philanthropy, he must, of necessity, focus on the income tax aspects of the problem. Because of generous income tax benefits resulting from charitable gifts, private philanthropy in the United States has been substantial. The view has been advanced that this represents an indirect gift to charity by the government, and, therefore, federal and state tax regulation of charitable trusts and foundations is justified. On the other hand, those holding that private philanthropy is an inalienable right

of the individual, view the income tax allowance for a charitable contribution as a recognition of such a view. Whatever the view of the reader, the book serves as an excellent comparison of these themes and would help to guide the philanthropist, his attorney, bank officer, etc. in understanding the regulation of charitable trusts and foundations by both sovereigns.

The author describes the organization, operation and activities of charitable trusts and foundations. He includes a discussion of the various types of charitable entities, such as corporations and trusts; the selection of trustees and directors; and, in primer form, the day-to-day activities of a foundation or trust in screening applicants for its beneficence.

The book is the result of many years of research and includes copious references to cases involving rather basic, but also uncommon, situations which may develop in the legal aspects of charitable activities. All in all, it is an excellent desk book for those who frequently work in the field of charitable giving as well as an excellent beginning text for the reader who is only occasionally presented with such problems.

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