RECENT LEGISLATION

LEGAL PROFESSION—THE ETHICS OF PRACTICE UNDER PENNSYLVANIA'S PROFESSIONAL ASSOCIATION ACT

In response to new Treasury Regulations[1] defining the word "association" for purposes of determining whether an entity is taxable as a corporation under the Internal Revenue Code of 1954,[2] the Pennsylvania General Assembly has recently enacted the Professional Association Act.[3] By the provisions of this act, persons practicing one of the traditional professions[4] can form a "professional association" having the corporate characteristics of continuity of life, centralized management, and a modified form of free transferability of interests. The purpose of the act is to enable such persons to organize business entities that will meet the criteria of an "association" under the new Treasury regulations, so that they may achieve several important federal income tax benefits, such as those extended to plans for profit sharing and retirement, pensions, group insurance, and deferred compensation.[5]

I. THE NEW TREASURY REGULATIONS

Section 7701(a)(3) of the Internal Revenue Code of 1954 defines "corporation" for federal tax purposes merely by specifying that the term "includes associations, joint-stock companies, and insurance companies." Nowhere in the Code is "association" defined; thus, the definition of this term has been left to judicial decision[6] and Treasury regulations under

---

[1] Treas. Reg. § 301.7701-2 (1960).

[2] INT. REV. CODE OF 1954, § 7701(a)(3).

[3] Pa. Laws 1961, act 416.

[4] According to § 2(2) of the act, "profession" includes "all occupations, legally or traditionally designated as professions, and which members thereof by law, tradition, or ethics, are forbidden to incorporate for the purpose of rendering professional services, including, but not limited to, architects, attorneys at law, certified public accountants, chiropractors, dentists, osteopaths, physicians and surgeons." As a general rule a corporation cannot practice medicine, *e.g.*, People v. United Medical Servs., 362 Ill. 442, 200 N.E. 157 (1936); State *ex rel.* Beck v. Goldman Jewelery Co., 142 Kan. 881, 51 P.2d 995 (1935), or lawfully engage in the practice of law, *e.g.*, State Bar Ass'n v. Connecticut Bank & Trust Co., 145 Conn. 222, 140 A.2d 863 (1958); In the Matter of Co-operative Law Co., 198 N.Y. 479, 92 N.E. 15 (1910); Blair v. Motor Carriers Serv. Bureau, 40 Pa. D. & C. 413 (C.P. 1939); see CANONS OF PROFESSIONAL ETHICS OF THE AMERICAN BAR ASSOCIATION, canon 35. It follows that neither doctors nor lawyers can incorporate to practice their respective professions, since that is not a lawful purpose for a corporation.

[5] These benefits are discussed in Jones, *The Professional Corporation*, 27 FORDHAM L. REV. 353 (1958); Lyon, *Action in Indiana on Kintner-Type Organizations*, 39 TAXES 266 (1961).

[6] It has been held that resemblance to the corporate form of carrying on business rather than the existence of a statutory charter of incorporation determines whether an entity is taxable as a corporation. Morrissey v. Commissioner, 296 U.S. 344, 357-58 (1935). Continuity of life, centralized management, limited liability, and free transferability of interests are the attributes that distinguish the corporation from other forms of business association. *Id.* at 359. However, all of these characteristics need not be present in any given case, since substantial resemblance to a corporation

section 7701(a)(3). Unhappy with the latest judicial decisions and reluctant to follow them,[7] in November 1960 the Treasury Department published final regulations [8] under section 7701 which, in form, substantially accept the judicial criteria, but which further elaborate the meaning of various corporate attributes and introduce into the determination of these attributes a new emphasis on local law.[9] Although the tests that must be applied in classifying a business entity are laid down by the Internal Revenue Code, state law now controls in determining whether a particular test has been met. This unprecedented incorporation of local law makes it unlikely that any organization governed by either the Uniform Partnership Act or the Uniform Limited Partnership Act can meet the standards of an association taxable as a corporation,[10] since a sufficient number of the characteristics of continuity of life, centralized management, limited liability, and free transferability of interests cannot be attained under those acts. If the new regulations are followed by the courts, they will in all probability deny the tax benefits now gained by nonstatutory professional associations —the *Kintner*-type associations.[11]

II. The Act

The paramount objective of Pennsylvania's Professional Association Act is to remove any state-law impediments to the formation of professional associations taxable as corporations under the new Treasury regulations.[12]

---

is the determining factor. Bert v. Helvering, 92 F.2d 491, 495 (D.C. Cir. 1937). It has also been consistently held that the status of a particular entity under state law is not controlling for purposes of the Internal Revenue Code. *E.g.*, Poplar Bluff Printing Co. v. Commissioner, 149 F.2d 1016, 1018 (8th Cir. 1945). In general, if an organization looks and acts more like a corporation than any other form, it will be taxed as such. Bert v. Helvering, *supra* at 495. The nonstatutory professional association was recognized as a corporation for tax purposes as a result of the *Kintner* cases. United States v. Kintner, 216 F.2d 418 (9th Cir. 1954), *affirming* 107 F. Supp. 976 (D. Mont. 1952); *accord*, Galt v. United States, 175 F. Supp. 360 (N.D. Tex. 1959), 12 Ala. L. Rev. 415 (1960); 14 Okla. L. Rev. 99 (1961).

[7] The Internal Revenue Service refused to accept United States v. Kintner, *supra* note 6, as a guide in subsequent cases. Rev. Rul. 56-23, 1956-1 Cum. Bull. 598. Later, it modified this position by ruling "that the fact that an association establishes a pension plan under section 401(a) of the Internal Revenue Code of 1954 . . . is not determinative of whether such organization will be classified as a partnership or an association taxable as a corporation." Rev. Rul. 57-546, 1957-2 Cum. Bull. 886-87.

[8] Treas. Reg. § 301.7701 (1960); see M. Lyons, *Comments on the New Regulations on Associations*, 16 Tax L. Rev. 441, 444-47 (1961); Rusoff, *A Law Firm Pension Plan?*, 37 Dicta 351, 354 (1960).

[9] See Treas. Reg. § 301.7701-1(c) (1960).

[10] See Lyon, *supra* note 5; Lyons, *supra* note 8; Ray, *Corporate Tax Treatment of Medical Clinics Organized as Associations*, 39 Taxes 73 (1961); Rusoff, *supra* note 8; Saltz, *Associations*, 38 Taxes 187 (1960). Compare Fuller, *Taxation of Louisiana Professional Partnerships as Associations*, 35 Tul. L. Rev. 723 (1961); Maier & Wild, *Taxation of Professional Firms as Corporations*, 44 Marq. L. Rev. 127 (1960).

[11] This term, coined after the *Kintner* cases, see note 6 *supra*, denotes a common-law association organized with the intent of qualifying as an association taxable as a corporation.

[12] Several other states have passed or are considering legislation designed to achieve the same result. Some states have adopted association or professional corporation statutes similar to Pennsylvania's; others have amended their Uniform

In order to accomplish this objective, the act creates a new statutory form of business association which is subject to neither the Uniform Partnership Act [13] nor the Uniform Limited Partnership Act [14] and which may possess enough corporate characteristics to meet the standards of the Treasury regulations. A professional association may be organized for a term of years or in perpetuity.[15] Under section 12 of the act, ownership interests in an association, evidenced by share certificates, may be transferred to any third person who is legally authorized to render the services for which the association was formed.[16] Sections 5 and 7 require that all associates subscribe to articles of association and adopt bylaws to govern the affairs of the organization. Section 8 provides that "all associates shall be eligible to be employes of the association," and any associate, agent, or employee who becomes disqualified by law to practice the profession is required by section 18 to be severed from the employ of the association and to dispose of any ownership interest in it. Under section 6, the associates must elect a board of governors, with authority to manage all of the affairs of the association. Board members need not be associates, although each must be legally authorized to perform professional services of the sort rendered by the association. Sections 9 and 10 require the board to establish the mode and amount of compensation of employees and to provide for the retention and distribution of earnings. Unlike corporate shareholders, all members of a professional association, by section 17, are jointly and severally liable for torts committed by agents and employees of the association and are jointly liable for its debts and other legal obligations.

In short, an association organized under the act will have an objective to carry on business for joint profit, continuity of life, centralized management, and a modified form of free transferability of interests. It will, however, be unable to limit the liability of its members. The tests of an association taxable as a corporation under the new Treasury regulations are apparently met when measured by this law. Indeed, an association created under the act will closely resemble an example which the Treasury regulations characterize as "an association for all purposes of the Internal Revenue Code." [17]

Partnership Acts to exclude associations of professional men. See Eber, *The Pros and Cons of the New Professional Service Corporations*, 15 J. TAXATION 308 (1961); Maier, *Don't Confuse Kintner-Type Associations with New Professional Corporations*, 15 J. TAXATION 248 (1961).

[13] PA. STAT. ANN. tit. 59, §§ 1-105 (1930).

[14] PA. STAT. ANN. tit. 59, §§ 171-228 (1930).

[15] Section 14. And "neither death, bankruptcy, resignation, expulsion, insanity, retirement, nor transfer or redemption of the interest of any associate shall cause its dissolution." *Ibid.*

[16] Section 12 permits further restrictions to be placed on transfers by associates if such restrictions are stated in the bylaws and on the ownership certificates. In most instances an association would probably want to control the admission of new members. This could be accomplished by requiring that an associate must first offer his interest to members of the association before transfering it to an outsider. The Treasury regulations allow this kind of restriction but state that "this modified corporate characteristic will be accorded less significance than if such characteristic were present in an unmodified form." Treas. Reg. § 301.7701-2(e)(2) (1960).

[17] Treas. Reg. § 301.7701-2(g)(1) (1960).

III. Attorneys and Professional Responsibility

Although the statute purports to permit attorneys to take advantage of the association form,[18] such legislative permission does not conclusively determine whether or not attorneys may properly practice law as an association. In Pennsylvania, regulation of the professional conduct of members of the bar is within the power of the judicial branch of government.[19] Thus, any authoritative decision as to the propriety of attorneys practicing law in the professional association form must come from the judiciary. However, since the Supreme Court of Pennsylvania has ruled that the Canons of Professional Ethics of the American Bar Association are the standards to which the conduct of members of the bar must conform,[20] certain general guidelines may be found in recent opinions by the American and Philadelphia Bar Associations.[21]

It might be objected that since section 6 of the act requires excess earnings to be distributed among the associates according to their "proportionate ownership in the association," such a division of fees paid into the association would violate canon 34, in that the division might not bear any relationship to individual "service or responsibility."[22] The same canon could also be violated by having as an associate an attorney who does not contribute any services to the association. These objections would be overcome, however, if shares in the association were allocated on the basis of service and responsibility, much as partners' shares are determined in a law partnership. Section 7[23] appears to permit an association to provide in its bylaws for periodic reapportionment of ownership interests if it is found that there has been a change in the value of any associate's contribution to the association.[24] And section 12 certainly enables an associa-

18 Section 2(2).

19 Sterling v. Philadelphia, 378 Pa. 538, 106 A.2d 793 (1954); Hoopes v. Bradshaw, 231 Pa. 485, 487, 80 Atl. 1098, 1099 (1911); *cf.* Lewis v. Board of Governance, 316 Pa. 193, 173 Atl. 652 (1934).

20 Pa. R. Civ. P. 205.

21 Opinion No. 303 of the ABA Committee on Professional Ethics and Grievances (Nov. 27, 1961); Opinion No. 61-7 of the Committee on Professional Guidance of the Philadelphia Bar Association, in 145 The Legal Intelligencer (Philadelphia) 807 (1961).

22 Canon 34 provides: "No division of fees for legal services is proper, except with another lawyer, based upon a division of service or responsibility."

23 "The associates shall adopt by-laws to regulate the affairs of the professional association. The by-laws shall provide for . . . a method for determining the values of the respective interests of the associates, . . . and whatever else the associates deem necessary for the successful regulation of the affairs of the association."

24 Because the act makes no express provision for reapportionment of shares, the Philadelphia Bar Association took a more cautious approach, suggesting that unethical fee-splitting might be avoided if "management of the association paid out all of the fees, after expenses, as salaries to the associates employed by the association in proportion to their contribution . . . ." Opinion No. 61-7 of the Committee on Professional Guidance, *supra* note 21, at 810. If the committee meant to exclude capital improvements such as expansion of office facilities from that part of fees which might be retained to cover "expenses," this solution would seem to impose a severe budgetry straitjacket upon any association of lawyers. On the other hand, if the committee meant to permit retention of fees for capital improvements, its suggestion would seem to violate canon 34, insofar as it would permit each associate to have an

tion to exclude inactive members of the profession.[25]

Canon 35 seeks to ensure preservation of the direct and personal relationship between attorney and client[26] and prohibits the professional services of a lawyer from being "controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer."[27] This provision was interpreted in a 1950 opinion of the Professional Ethics Committee of the American Bar Association concerning the ethics of establishing a common-law or Massachusetts trust within a law firm in order to take advantage of the pension provisions of the Internal Revenue Code.[28] The Committee concluded that such action would be unethical, primarily because the trust would be a lay intermediary in violation of canon 35.[29] It can be argued that in a "professional association" there would be an intermediary between attorney and client, because section 6 of the act requires that the board of governors be empowered to "manage all of the affairs of the . . . association." Although the trust situation can be distinguished in many ways from that of an association formed under the act,[30] the argument that attorney-trustees are a lay intermediary is certainly applicable to a board of governors. But this argument assumes that when attorneys are acting as trustees, they are acting in a lay capacity, not in their capacity as attorneys. Although this premise may be technically correct, the policy behind canon 35—a desire to prohibit laymen from possessing any financial interest in or control of the practice of law[31]

---

interest upon dissolution in assets derived from fees, and that interest might come to bear no relation to the individual services contributed by the associate. It would seem, therefore, that procedures for reapportionment of shares should be included in the bylaws, and that such procedures are sufficiently "necessary for the successful regulation of the affairs of the association" to be valid under section 7 of the act.

25 See note 16 *supra*.

26 "A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. . . ."

27 The canon continues: "A lawyer's responsibilities and qualifications are individual. He should avoid all relations which direct the performance of his duties by or in the interest of such intermediary. . . ."

28 Opinion No. 283 of the ABA Professional Ethics Committee, in 36 A.B.A.J. 870 (1950); see Rusoff, *supra* note 8, at 358.

29 The committee gave several other reasons for its opinion: if the organization were a true common-law trust, the associates would be shielded from personal liability; lawyers in the trust would be "masquerading" as a partnership in violation of canon 33; since ownership could fall into the hands of laymen, there would be a possibility of laymen receiving compensation for the services of lawyers, in violation of canon 34. Opinion No. 283 of the ABA Professional Ethics Committee, *supra* note 28, at 871. In reaching its conclusion, the committee seems to have been influenced by the consideration that state law would deem the trust a partnership because of control retained by the beneficiaries over the trustees; thus it was doubtful whether the trust would in fact be taxed as a corporation under the Internal Revenue Code. See *id.* at 870.

30 There would be no limited liability in an association formed under the act. See § 17. Also there would be no chance of ownership falling into the hands of laymen. See §§ 3, 12, 13. The lawyers in the trust situation proposed to form a trust within an existing partnership, but in the case of an association the partnership would be dissolved when the association was formed. Thus, many unethical features of a trust need not be present in an association organized under the act.

31 See In the Matter of Co-operative Law Co., 198 N.Y. 479, 92 N.E. 15 (1910); Jones, *The Professional Corporation*, 27 FORDHAM L. REV. 353, 362 (1961).

—would not seem to be violated if the intermediary consists exclusively of active members of the bar. The most recent ABA opinion, by similar reasoning, concluded that "as long as the centralized management can only be in lawyers, the existence of centralized management will not result in a violation of . . . Canon [35]." [32] Nevertheless, it would seem, if the board of governors assumes to determine what clients the association will represent, to control the details of a client's cause, and in general to place itself between individual associates and their clients,[33] it would effectively destroy the direct and personal relationship between attorney and client, in violation of canon 35, regardless of its being composed exclusively of lawyers. An association of lawyers, however, could be organized under the act in such a way as to preserve the present operations and relationships within the existing law partnership. The existing partnership agreement could be incorporated into the bylaws of the association so that the board of governors would merely replace the executive committee or similar management group empowered to run the daily affairs of the law firm and execute its functions, leaving professional decisions to be made by individual associates. By this means, a professional association of lawyers could probably be organized in harmony with canon 35.

There is, then, support for the proposition that an association conforming to all of the provisions of the act could be formed consistently with ethical standards. The act shows a deliberate intention on the part of the legislature to retain the ethical norms imposed upon practitioners of the professions.[34] However, if it can be assumed that the dominant motivation to form such an association would be the desire to achieve tax benefits, and that in organizing such an association attorneys will attempt to follow closely the new Treasury regulations, it is questionable whether, in practice, an association of lawyers would meet the ethical standards. Although an association is not a corporation per se, in order to be treated as a corporation for tax purposes, it must closely resemble one in operation.[35] An association which operates substantially the same way as does a law partnership could not meet the Treasury standards, since an association must have truly centralized management in order to satisfy the Treasury regulations.[36] An association that does meet this criterion would violate canon 35, for a board of governors possessed of the power to exercise the

[32] Opinion No. 303 of the ABA Committee on Professional Ethics and Grievances (Nov. 27, 1961).

[33] Section 6 seems to contemplate that the board would not act in a merely ministerial capacity, but would have exclusive authority, like the directors of a corporation, to "manage all of the affairs" of the association.

[34] See the following sections of the act: §§ 3, 4, 8, 12, 13, 15, 17, 18. See also Jones, *Should Lawyers Incorporate?*, 11 HASTINGS L.J. 150, 153 (1959).

[35] See Morrissey v. Commissioner, 296 U.S. 344 (1935); Treas. Reg. § 301.7701-2 (a) (1) (1960).

[36] Since there will be only a modified form of free transferability of interests and no limited liability of associates in an association organized under the act, it is imperative that the association have centralized management and continuity of life in order to have more corporate attributes than noncorporate attributes. See Treas. Reg. §§ 301.7701-2(a) (2)-(3) (1960).

kind of centralized management contemplated by the regulations—"a concentration of continuing exclusive authority to make independent business decisions on behalf of the organization which do not require ratification by members of such organization" [37]—would so control and dominate decisions affecting the practice of law by associates as to destroy the traditional attorney-client relationship.[38] Unlike many law partnerships in which specific powers are delegated to one or more partners to act for all the partners until such powers are withdrawn, the Treasury regulations demand that all power to make "business decisions" be lodged in the first instance in the management group and that this authority be incapable of being withdrawn on the initiative of the associates. After an associate operating under centralized management of this sort has been assigned to a case, many of his professional decisions could be countermanded or modified by the board; the associate would be directly responsible to the board—rather than to his client—for the manner in which he conducts the client's affairs. This kind of arrangement clearly contravenes the mandate of canon 35, that a lawyer's "responsibility should be direct to the client." Regardless of whether a professional association could successfully achieve the status of "corporation" for tax purposes, there is no reason to ignore the probability that any association of lawyers formed under the act will attempt to follow the Treasury's suggestions closely. So created, an association of lawyers could not satisfy the Canons of Professional Ethics.[39]

---

[37] Treas. Reg. § 301.7701-2(c)(3) (1960). "There is no centralization of continuing exclusive authority to make management decisions, unless the managers have sole authority to make such decisions. For example, in the case of a corporation or a trust, the concentration of management powers in a board of directors or trustees effectively prevents a stockholder or a trust beneficiary, simply because he is a stockholder or beneficiary, from binding the corporation or the trust by his acts." Treas. Reg. § 301.7701-2(c)(4) (1960).

[38] The lawyer-associate could not make many of the decisions seemingly required by the canons to be made by him alone, since the power of ultimate decision would rest with the board of governors. See, *e.g.*, canons 8 ("Advising Upon the Merits of a Client's Cause"), 12 ("Fixing the Amount of the Fee"), 30 ("Justifiable and Unjustifiable Litigations"), 31 ("Responsibility for Litigation"), 34 ("Division of Fees"). *But see* Medical Partnership Ass'ns, 25 Pa. D. & C.2d 29 (Pa. Att'y Gen. Official Opinion, Sept. 27, 1961), discussing whether physicians can form a partnership association under PA. STAT. ANN. tit. 59, §§ 341-461 (1930), as amended, PA. STAT. ANN. tit. 59, §§ 441-42 (Supp. 1960), in conformity with the standards of ethics of the medical profession. The opinion concluded that it would be ethical for physicians to form such an association, and stated that the same conclusion would be applicable to the Professional Association Act. In discussing the nature of the power given to managers of a partnership association, the opinion said: "In order to satisfy the requirements of the Medical Practice Act, the bylaws of the association should explicitly provide that the managers have no authority to interfere with the professional relationship between any member and his patient or to influence the course of treatment." *Id.* at 41. And it was asserted that this type of centralized management "would satisfy the Federal tax regulations." *Id.* at 42. Perhaps in medical practice, and certainly in law practice, to exclude all matters pertaining to "the professional relationship" between an associate and his patient or client seems incompatible with the notion of centralized management contained in the Treasury regulations. See note 37 *supra*.

[39] This conclusion is not inconsistent with that of the ABA opinion. In holding that "centralized management, by lawyers exclusively, . . . does not in and of itself present any ethical difficulties," Opinion No. 303 of the ABA Committee on Professional Ethics and Grievances (Nov. 27, 1961), the committee seemed to be proceeding upon the premise that the type of centralized management employed would be sub-

State laws attempting to extend federal tax benefits to local residents have had a checkered history.[40] Pennsylvania's Professional Association Act, insofar as it applies to lawyers, actually encourages members of the bar to tread a narrow line between propriety and impropriety.[41] Instead of sanctioning alteration of the traditional forms in which the law has been practiced, so as to obtain for lawyers some financial benefit under federal tax laws, the states might do better to reinforce the ancient tradition of immediate, intimate, and personal relationship between individual attorneys and their clients, leaving to the federal government[42] whatever tax relief legislation may seem appropriate.

---

stantially similar to that now exercised by various partnership management groups. However, the type of concentration of management authority which the Treasury regulations demand is in substance very different from that employed in law partnerships. See notes 37, 38 *supra* and accompanying text. It is perhaps significant that the Supreme Court of Florida felt called upon to amend the Code of Ethics governing Florida attorneys in order to enable members of the Florida bar to practice law in the corporate form created by the recent Professional Service Corporation Act, Fla. Laws 1961, ch. 61-64. See In the Matter of the Fla. Bar, 133 So. 2d 554 (Fla. 1961). Since the Florida Code of Ethics is substantially similar to the ABA Canons of Professional Ethics, see *id.* at 558-59, the action of the Florida court suggests that an entity organized to correspond to the Treasury regulations' definition of an "association" could not satisfy the ABA Canons as they are presently written. Opinion No. 61-7 of the Committee on Professional Guidance, *supra* note 21, at 814. The House of Delegates of the American Medical Association adopted a resolution on December 5, 1957, permitting "physicians to join together as partnerships, associations or other lawful groups provided that the ownership and management of the affairs thereof remain in the hands of licensed physicians." Medical Partnership Ass'n, *supra* note 38, at 42 n.21 (1961). The AMA was of the opinion that such action would not affect physicians' ethical responsibilities, since "the ethical principles of the A.M.A. apply to the individual physician whether he practices alone or with a group . . . ." *Ibid.* The same reasoning might be employed to support the conclusion that an association of attorneys resembling a partnership in operation would be ethical under the Canons of Professional Ethics. However, it was not advanced in a case where centralized management would destroy the physician-patient or attorney-client relationship.

[40] See Note, 50 COLUM. L. REV. 332 (1950). This note discusses the consequenses of pre-1948 legislation in five states designed to give local residents the income-splitting advantages of community property, see Poe v. Seaborn, 282 U.S. 101 (1930), and expresses the hope "that the experience of the new community property jurisdictions will serve as a warning to legislatures throughout the country against the hasty enactment of laws altering basic social institutions without a thorough understanding of their consequences." Note, *supra* at 351.

[41] "[I]t is difficult to see how an organization which has more corporate characteristics than noncorporate characteristics could practice law in a manner consistent with the best concepts of professional status." Opinion No. 61-7 of the Committee on Professional Guidance, *supra* note 21, at 810.

[42] Congress has recently been urged to enact legislation which will permit self-employed individuals to participate in tax-deferred retirement plans. See Keogh, *Tax Equity for the Self-Employed*, 47 A.B.A.J. 665 (1961); Rapp, *Pensions for the Self-Employed: The Treasury Department-Finance Committee Plan*, 16 TAX L. REV. 227 (1961); Rapp, *The Quest for Tax Equality for Private Pension Plans: A Short History of the Jenkins-Keogh Bill*, 14 TAX L. REV. 55 (1958). Such a proposal is embodied in the Keogh-Utt bill, H.R. 10, 87th Cong., 1st Sess. (1961), passed by the House of Representatives on June 5, 1961. This bill would treat self-employed professionals as their own employers and would thereby permit them to set up tax-favored private retirement plans similar to the qualified pension plans permitted by INT. REV. CODE OF 1954, § 401. Thus, without changing their business form, professionals would be enabled to make tax-free contributions to their own pension funds and required to pay taxes only on retirement benefits actually received in later years. Though limited to only one aspect of tax equality, pension plans, the Keogh-Utt bill would extend the principal tax advantage motivating professionals to resort to associations.