

## Rev. Rul. 98-41

In Rev. Rul. 67-301, 1967-2 C.B. 146, an employees' trust, formed under § 401(a) of the Internal Revenue Code and exempt under § 501(a), invested in a common trust fund that is exempt under § 584. Rev. Rul. 67-301 concludes, in part, that the income of the common trust fund is not unrelated business taxable income (UBTI) in the hands of the employees' trust.

Section 1.584-2(c)(3) of the Income Tax Regulations provides that for taxable years beginning on or after September 22, 1980, any amount of income or loss of the common trust fund that is included in the computation of a participant's taxable income for the taxable year shall be treated as income or loss from an unrelated trade or business to the extent that the amount would have been income or loss from an unrelated trade or business if the investments of the common trust fund had been made directly by the participant.

The discussion of UBTI in Rev. Rul. 67-301 is inconsistent with § 1.584-2(c)(3). Therefore, Rev. Rul. 67-301 is modified to provide that the employees' trust's proportionate share of the income of the common trust fund is UBTI to the extent that it would have been if the investment producing the income had been made directly by the employees' trust.

## EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 67-301 is modified, effective for taxable years beginning on or after September 22, 1980.

## DRAFTING INFORMATION

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