

A corporation organized to build a stadium and lease it to a school district, a political subdivision, which will eventually get title to such stadium, is not entitled to exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954. The corporation, however, is entitled to exemption from Federal income tax under the provisions of section 501(c)(4) of the Code as an organization not organized for profit but operated exclusively for the promotion of social welfare. Contributions to it are deductible by donors to the extent provided by section 170 as contributions for the use of a political subdivision for exclusively public purposes.

Advice has been requested whether a corporation, which was organized to build a stadium and lease it to a school district, under the circumstances set forth below, is entitled to exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954.

The instant corporation was organized for the purpose of building a stadium and leasing it to a school district, a political subdivision. Its activities consist of making collections of rent, paying off debts, and making distributions in retirement of its capital stock with no profit to the stockholders. The articles of incorporation prohibit the payment of dividends to stockholders and provide for the transfer to the school district of title to the stadium upon the retirement of the capital stock at par and the payment of all indebtedness.

Section 501(c)(3) of the Code provides for the exemption of:

Corporations, \* \* \* organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, \* \* \* no part of the net earnings of which inures to the benefit of any private shareholder or individual, \* \* \*.

Although the instant corporation is furnishing a stadium for the use of a public school district, title to which will eventually vest in such school district, it is held that the corporation is not organized and operated exclusively for any one or more of the purposes specified in section 501(c)(3) of the Code, and that it, therefore, is not entitled to exemption from Federal income tax under that provisions of law.

However, it is held that the instant corporation is exempt from Federal income tax under the provisions of section 501(c)(4) of the Code as an organization not organized for profit but operated exclusively for the promotion of social welfare.

Subsection (c) of section 170 of the Code provides, in part, that the term "charitable contribution" means a contribution or

gift to or for the use of--

(1) A State, a Territory, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

Contributions made to the instant corporation are deductible by the donors in computing their taxable income in the manner and to the extent provided by section 170 of the Code as contributions to or for the use of a political subdivision for exclusively public purposes.