

Social and recreational activities carried on by an alumni association of a university, which are merely incidental to its basic purpose and objective of advancing the interests of the university, do not of themselves preclude such organization from tax exemption under section 501(c)(3) of the Internal Revenue Code of 1954 as an association organized and operated exclusively for educational and charitable purposes.

G.C.M. 22116, C.B. 1940-2, 100, revoked.

The Internal Revenue Service has been requested to state whether an alumni association of a university formed for the purposes and objectives summarized below qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The instant alumni association was formed as a nonprofit organization generally to promote the interests and welfare of the university with which it is affiliated. Its constitution states that the association is to be organized and operated exclusively for education and charitable purposes. In addition to and in the furtherance of such purposes, the constitution provides that the association shall foster a spirit of fraternity among graduates and former students of the university, encourage recreational activities for its members and promote other appropriate nonprofit activities. The membership of the association is composed of graduates and former students of the university. It has its own officers and governing board and derives most of its income from membership dues. It also receives a small profit from the publication of the alumni magazine which each member receives as a part of the benefits of membership. The association is not an integral part of the university and the university does not exercise any legal or technical control over its affairs. The university furnishes the association with office space and the necessary funds in connection with certain record-keeping services which it performs for the university.

The information which has been furnished the Service discloses that the association participates in the raising of funds for the university's building programs, the establishment of scholarships and a student's aid and loan fund; that it makes awards to alumni for outstanding work in promoting the welfare of the university; that it engages in public relations work in behalf of the university; that in cooperation with the university it keeps records and statistics on graduates and former students of the university; that it receives transcripts of the academic records of undergraduates and information from the university with respect to university and alumni activities; that it publishes an alumni magazine; that it supervises the sale of football tickets allotted to the alumni and assists in class reunions and home-coming activities; and that it furnishes at cost duplicating and mailing services to local alumni groups, other related

organizations and faculty members.

Section 501(c) of the Internal Revenue Code of 1954 describes certain organizations exempt from income tax under section 501(a) of the Code and reads in part as follows:

(3) Corporations, * * * organized and operated exclusively for * * * charitable, * * * or education purposes, * * * no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, * * *.

Under section 501(c)(3) of the Code, an organization is deemed to be formed and operated exclusively for one or more of the purposes specified therein if its principal, primary and predominant purposes, and substantially all of its activities, are devoted to such specified purpose or purposes. Thus, an activity which is in fact incidental, secondary or subservient to an organization's exempt purpose or purposes and which, when weighed against the whole of the activities of the organization, is less than a substantial part of the total, will not ordinarily operate to deny exemption.

It is the position of the Service that alumni associations generally are not organized and operated exclusively for educational purposes within the meaning of section 501(c)(3) of the Code, except in those cases where the association is controlled by or operated as an integral part of an educational institution or otherwise shows a substantial integration with such an institution. See Rev. Rul. 56-486, C.B. 1956-2, 309.

However, it is to be noted that the absence of one or more of the circumstances described in Revenue Ruling 56-486 is not alone sufficient grounds upon which to deny exemption if the association otherwise qualifies for exemption. Each case must be considered in the light of its own particular facts and circumstances. Therefore, in applying Revenue Ruling 56-486 to other situations, it should be borne in mind that such Revenue Ruling is based on a particular factual situation which meets the requirements for exemption under section 501(c)(3) of the Code and that it does not rule out all other situations.

In the case of Estate of Philip R. Thayer, Deceased, et al. v. Commissioner, 24 T.C. 384, acquiescence, C.B. 1956-2, 8, relative to the deduction under section 812(d) of the Internal Revenue Code of 1939 (now section 2055 of the 1954 Code) of the decedent's legacy to the California Alumni Association, the Tax Court of the United States held that such deduction was allowable.

It found that the association was operated exclusively for educational and charitable purposes within the meaning of section 812(d) of the 1939 Code. In arriving at its decision, the court stated that the crux of the problem is whether the social and

recreational activities conducted by the Association are 'substantial' or merely incidental to the objective of advancing the interests of the university. The court concluded that the social or recreational aspects of the Association's activities were merely incidental to its primary purpose of affording a medium through which the alumni can contribute to the welfare of the university.

Admittedly, the instant alumni association was organized to advance the welfare of its university. Its constitution states that it is to be organized and operated exclusively for educational and charitable purposes. The constitution also states that in addition to and in the furtherance of such purposes the association shall foster a spirit of fraternity among graduates and former students of the university, encourage recreational activities for its members and promote other appropriate nonprofit activities. The evidence presented discloses that participation in the university's fund-raising campaigns and the performance of necessary services for the university constitute the major part of the association's activities.

Although the statute requires that an organization claiming exemption under section 501(c)(3) be organized and operated 'exclusively' for one or more of the specified purposes, the section does not require that every activity performed by the organization shall per se be directly for one or more of such purposes. Thus, activities which involve social and other related features which are incidental to the primary purpose or purposes are not decisive that the organization is participating in non-exempt activities. See I.T. 3330, C.B. 1939-2, 185. The Tax Court in the Thayer case recognized, and the Service agrees, that activities which in themselves are not educational or charitable may be incidental to such purposes; if they are, such activities do not constitute a ground for denying the exemption.

An appraisal of the social, recreational and other activities engaged in by the association primarily for the benefit of its members and other alumni results in the conclusion that such activities are incidental. It is concluded, therefore, that the association's principal, primary and predominate stated purposes are educational and charitable and that substantially all of its activities are devoted to charitable purposes in that they are in aid of education. Accordingly, it is held that the instant association is organized and operated exclusively for educational or charitable purposes and that it is entitled to exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

Since it may be inferred from the facts as stated in G.C.M. 22116, C.B. 1940-2, 100, that an alumni association which is not controlled by or operated as an integral part of the educational institution with which it is affiliated is not exempt under section 501(c)(3) of the 1954 Code or section 101(6) of the 1939 Code, G.C.M. 22116, is hereby revoked.

Contributions, exclusive of membership dues, to the instant association are deductible by donors in computing their taxable income in the manner and to the extent provided by section 170 of the 1954 Code. See Rev. Rul. 54-565, C.B. 1954-2, 95.

An organization may not consider itself exempt from tax merely because it falls within the scope of this Revenue Ruling. In order to establish its exemption it is necessary that every organization claiming exemption under section 501(c)(3) of the Code file an application on Form 1023, Exemption Application, with the District Director of Internal Revenue for the internal revenue district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the Income Tax Regulations.