

A nonprofit organization (not operated under the lodge system), which maintains a social club for members and also provides sick and death benefits for members and their beneficiaries, does not qualify for exemption from Federal income tax either as a social club under section 501(c)(7), a civic league under section 501(c)(4), or a fraternal beneficiary society under section 501(c)(8) of the Internal Revenue Code of 1954.

Advice has been requested whether a social club, which has an established system for the payment of sick and death benefits to members, may qualify for exemption from Federal income tax under section 501(a) of the Internal Revenue Code of 1954.

The instant organization is a nonprofit organization formed to operate a social club and to provide assistance for its members and their families in the event of illness or death.

The purposes of the organization, as stated in its constitution, are to spread friendship and fraternity in the club; to aid the membership in the event of illness, personal injury, or accident; to pay benefits to sick members; in the event of death, to pay a death benefit to whomever the member shall have designated; and to develop patriotism among the membership.

Activities of the organization consist of operating a club room, providing athletic activities, and making payments of sick and death benefits.

The organization's receipts are derived from membership dues and operation of the club room for its members. The receipts from the club room are substantial and are derived from bar sales, tobacco product sales and various amusement devices.

Disbursements are made for the cost of goods sold, wages, utilities, music, compensation of officers, expenses of social and athletic activities, payments of sick and death benefits, contributions, and miscellaneous expenses.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and as pertinent here reads, in part, as follows:

(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, \* \* \*

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(7) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no

part of the net earnings of which inures to the benefit of any private shareholder.

(8) Fraternal beneficiary societies, orders, or associations-

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

The instant organization maintains a social club for its members as described in section 501(c)(7) and, in addition, pays sick and death benefits to its members. The payment of sick and death benefits is not a function of a social club. *Allied Trades Club, Inc. v. Commissioner*, 23 T.C. 1017 (1955), affirmed 228 Fed. (2d) 906 (1956).

Organizations described in section 501(c)(4) of the Code comprise those not organized for profit but operated exclusively for purposes beneficial to the community as a whole and, in general, include organizations engaged in promoting the welfare of mankind. Section 1.501(c)(4)-1 of the Income Tax Regulations provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members.

In this connection, compare Revenue Ruling 57-494, C.B. 1957-2, 315, which holds that a voluntary employees' beneficiary association, providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, which does not qualify for exemption from Federal income tax under the provisions of section 501(c)(9) of the Code, because the amounts collected from members do not meet the 85-percent requirement contained in that section, may not qualify for exemption as a social welfare organization under section 501(c)(4) of the Code.

There is no provision in the Code for exemption from income tax of an organization having a combination of functions such as the one herein under consideration.

A case in point is *Allgemeiner Arbeiter Verein v. Commissioner*, 25 T.C. 371 (1955), affirmed 237 Fed. (2d) 604 (1956). In that case the Tax Court of the United States had before it the question of exemption of an organization which was formed to provide mutual assistance in case of sickness or death of its members, but which expanded its scope to include intensive social activities.

The court held that where one activity carried on by the petitioner prevents it from satisfying the requirements of section 101(9) of the Internal Revenue Code of 1939 and the petitioner's other principal activity is inconsistent with section 101(10) of the 1939 Code, the petitioner is not an exempt organization, notwithstanding that an organization carrying on as its sole activity either of the two principal functions carried on by the petitioner might qualify for an exemption under one of the two foregoing provisions.

The court stated that there is no statutory authority, whatever the equities, permitting the exemption of an organization, however worthy, which cannot fit itself within one of the various subdivisions of section 101 of the 1939 Code (now section 501 of the 1954 Code).

Operating under the lodge system, as contemplated in section 501(c)(8) of the Code, means carrying on activities under a form of organization that comprises local branches chartered by a parent organization and largely self-governing, called lodges, chapters, or the like. Section 1.501(c)(8)-1(a) of the regulations. The instant organization is not operated under the lodge system.

In view of the foregoing, it is held that the instant organization does not qualify for exemption from Federal income tax as an organization described in section 501(c)(4), (7), or (8) of the Code.