

A war veterans' organization qualifies for exemption under section 501(c)(4) of the Code if its primary activity is the promotion of social welfare, even though it operates a resort concession and uses funds to pay for certain buildings; Revenue Ruling 58-517 superseded.

The Internal Revenue Service has reconsidered Revenue Ruling 58-517, C.B. 1958-2, 196, which relates to a war veterans' post, formed to carry on veterans' programs and other social welfare, patriotic, and civic activities.

The post had the exclusive right to operate a bathhouse and bathing beach and to sell refreshments at a lake resort. The major portion of its income was from the operation of the concession. The income was expended to further its social welfare programs and to liquidate indebtedness on buildings used for veterans' programs and for other social welfare purposes.

The organization's activities, other than those incident to the concession, included participation in various civic and charitable drives, organizational welfare activities, free classes in swimming instruction, free swimming for a limited number of children (whose transportation is also furnished without charge), and the free use of the organization's hall for a number of charitable and civil activities.

Revenue Ruling 58-517 concluded that the organization was not entitled to exemption from Federal income tax under section 501(c)(4) of the Code because the post was engaged in an activity ordinarily carried on for profit (operation of the concession) and also because a portion of its income was used for purposes other than social welfare (to liquidate indebtedness on post buildings). That Revenue Ruling was published prior to the promulgation of section 1.501(c)(4)-1(a)(2) of the Income Tax Regulations which provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations which are operated for profit. Under these regulations, if the promotion of social welfare remained the primary activity of the organization described in Revenue Ruling 58-517, the organization would qualify for exemption under section 501(c)(4) of the Code notwithstanding the business activities from which it derived the major part of its income. See Rev. Rul. 66-221, C.B. 1966-2, 220.

It was also concluded in Revenue Rulings 58-517 that the use of funds by the organization to pay for buildings used for its veterans' programs and for other social welfare purposes did not serve a social welfare purpose within the meaning of section 501(c)(4) of the Code. However, the traditional activities carried on by war veterans' posts in their respective communities have been held to constitute the promotion of social welfare.

Rev. Rul. 68-45, C.B. 1968-1, 259. Therefore, it is held that the expenditure of its funds by the organization to acquire, maintain, and operate buildings in which to carry out its social welfare programs are activities carried on for the promotion of social welfare within the meaning of section 501(c)(4) of the Code and the applicable regulations.

Accordingly, Revenue Ruling 58-517, C.B. 1958-2, 196, is hereby revoked.