Rev. Rul. 69-573, 1969-2 C.B. 125

A college fraternity that maintains a chapter house for active members who are students of the school is not exempt under section 501(c)(3) of the Code but is exempt under section 501(c)(7); contributions to the fraternity are not deductible; I.T. 1427 and G.C.M. 5952 superseded.

The purpose of this Revenue Ruling is to update and restate under the current statute and regulations the positions set forth in I.T. 1427, C.B. I-2, 187 (1922), and G.C.M. 5952, C.B. VIII-1, 172 (1929). The questions presented concern the exemption from Federal income tax under section 501 of the Internal Revenue Code of 1954 of the college fraternity described herein, and the deductibility of contributions to the fraternity under section 170 of the Code.

The fraternity is an organization of students and alumni, with those currently attending school comprising its active membership. New members are chosen in their freshman or sophomore years by the active members. The basis for selection is largely one of companionability, although some academic qualifications also exist. The fraternity owns a chapter house, which was built with the proceeds from contributions from its members, and which contains living rooms, dining rooms, sleeping rooms, study rooms, and a library. The chapter house also serves as a center for the social activities of its members. The fraternity is not operated as an integral part of the college nor does the college exercise any direct control over its membership. The fraternity is organized on a nonprofit basis. All receipts from members are used to pay the expenses of the chapter house and no part of its net income inures to the benefit of private individuals.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of an organization organized and operated exclusively for educational purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term 'charitable' as used in section 501(c)(3) of the Code includes the advancement of education. Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term 'educational' relates to the instruction or training of the individual for the purpose of improving or developing his capabilities.

Section 501(c)(7) of the Code provides for the exemption from Federal income tax of clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes. Revenue Ruling 58-589, C.B. 1958-2, 266, describes the characteristics of a social club as personal contacts, fellowship, and a commingling of members.

Although the typical college fraternity does in some degree contribute to the cultural and educational growth of its members during their student years, this is not its primary purpose. Phinney v. Dougherty, 307 F.2d 357 (1962); Davison v. Commissioner, 60 F.2d 50 (1932), and the cases cited therein. Such an organization is primarily a social club in that its major functions are to provide a meeting place for its members, living quarters for many of them, the place where their meals are served, and the headquarters for their entertainment.

Accordingly, it is held that the organization is not exempt from Federal income tax under section 501(c)(3) of the Code but is exempt under section 501(c)(7). In view of the fact that this fraternity is not organized and operated exclusively for any of the purposes described in section 170(c) of the Code, it follows that contributions thereto are not deductible under section 170(a) of the Code.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1025, Exemption Application, in order to be recognized by the Service as exempt under section 501(c)(7) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.

I.T. 1427 and G.C.M. 5952 are superseded since the positions set forth therein are restated under current law in this Revenue Ruling.