

A city bar association, exempt under section 501(c)(6) of the Code, that primarily directs its activities to the promotion and protection of the practice of law may not be reclassified as an educational or charitable organization exempt under section 501(c)(3); G.C.M. 4805 superseded.

A city bar association, which has been recognized as exempt from Federal income tax under section 501(c)(6) of the Internal Revenue Code of 1954, has asked the Internal Revenue Service whether it may be reclassified as a charitable and educational organization exempt from Federal income tax under section 501(c)(3) of the Code.

The association engages in the following activities:

- (a) Sponsoring semi-annual law institutes given by members of the association in conjunction with the state's two leading law schools;
- (b) Publishing legal articles of some depth;
- (c) Providing judges for moot court programs at local law schools;
- (d) Arranging for law students to assist appointed counsel in the criminal defense of indigents;
- (e) Assisting in the production of a number of nonprofit radio and television programs directed toward educating laymen on legal matters;
- (f) Maintaining a speakers' panel to instruct high school students on the function of law and the legal system;
- (g) Extending legal assistance to indigents;
- (h) Creating and affording leadership and financial assistance to a legal aid society;
- (i) Seeking improvements in the administration of justice by researching, investigating, drafting, and recommending new ways to expedite legal procedures;
- (j) Establishing and promulgating minimum fee schedules;
- (k) Preparing papers on the economics of running an efficient law office;
- (l) Proposing and advocating that lawyers in the armed forces be paid on a basis comparable to the bases for doctors and dentists;

(m) Preparing and publishing studies of incorporation as a tax-saving device for lawyers;

(n) Directing other programs toward making the practice of law more profitable in the state;

(o) Establishing and enforcing standards of conduct for members;

(p) Sponsoring for its members an annual Christmas party, golf tournaments, membership dinners opera nights, group overseas travel plans, and a Junior Bar Association with a full schedule of periodic dinners, cocktail parties, and dances.

The activities listed in paragraphs (j) through (p) constitute a substantial part of the organization's activities.

Section 501(c)(3) of the Code provides in part for the exemption from Federal income tax of organizations 'organized and operated exclusively for * * * charitable * * * or educational purposes.'

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having a common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit.

In construing the meaning of the phrase 'exclusively for educational purposes' in *Better Business Bureau v. U.S.*, 326 U.S. 279 (1945), Ct. D. 1650, C.B. 1945, 375, the Supreme Court of the United States said, 'This plainly means that the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes.' This rationale applies equally to any category of charitable purpose under section 501(c)(3).

The association's activities listed in paragraphs (j) through (p) are activities that are primarily directed at the promotion and protection of the practice of law and thus further the common business purpose of its members. These activities are substantial and reflect noncharitable and noneducational purposes. Accordingly, it is held that this bar association may not be reclassified as an organization exempt from Federal income tax under section 501(c)(3) of the Code, even though it has a number of educational and charitable activities.

In the decisions of the Court of Appeals for the Eighth

Circuit in *St. Louis Union Trust Co., Exr. of the Estate of Landwehr v. United States*, 374 F.2d 427 (1967), and the Court of Appeals for the Second Circuit in *Dulles et al., Exrs. v. Johnson*, 273 F.2d 362 (1957). It was held that bequests to certain bar associations were deductible as charitable transfers within the meaning of the estate tax provisions of the Internal Revenue Code that were there involved. To the extent those cases can be interpreted as holding that a bar association like the one described in the Revenue Ruling is 'organized and operated exclusively for * * * charitable * * * or educational purposes' (the phrase used in the relevant estate tax provisions), and as implying that such an organization would qualify for exemption for Federal income tax under identical language found in section 501(c)(3) of the Code, the Internal Revenue Service does not agree with the decisions and will not use those cases as precedents in disposing of questions of exemption from Federal income tax arising under section 501(c)(3) of the Code. G.C.M. 4805, C.B. VII-2, 58 (1928), is hereby superseded because the position stated therein is restated in this Revenue Ruling.