

Public housing authority. A public housing authority incorporated under a State statute conferring upon it the power to conduct examinations and investigations, to administer oaths, issue subpoenas, and make its findings and recommendations available to appropriate agencies does not qualify for exemption under section 501(c)(3) of the Code.

Advice has been requested whether the municipal instrumentality described below qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

A public housing authority was organized to undertake the clearance, replanning, and reconstruction of areas in which unsanitary or unsafe housing conditions exist and to provide safe and sanitary dwelling accommodations for low income families in a particular municipality. It was incorporated under a state statute conferring upon it the power to conduct examinations and investigations, of hear testimony and take proof under oath at public or private hearings on any matter material for its information, to administer oaths, to issue subpoenas requiring the attendance of witnesses or the production of books and papers, and to issue commissions for the examination of witnesses who are outside the state or unable to attend before the authority, or who are excused from attendance. The authority was also empowered to make available to appropriate agencies (including those charged with a duty of abating or requiring correction of nuisances, or of demolishing unsafe or unsanitary structures) its findings and recommendations with regard to any buildings or property where conditions exist that are dangerous to public health, morals, safety, or welfare.

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

Rev. Rul. 60-384, 1960-2, C.B. 172, holds that a wholly-owned state or municipal instrumentality that is a separate entity and a counterpart of an organization described in section 501(c)(3) of the Code may qualify for exemption under that section. However, the Revenue Ruling holds that it would not be a clear counterpart of a section 501(c)(3) organization if it is clothed with powers beyond those of an organization described in section 501(c)(3). Examples of such powers set forth in the Revenue Ruling are enforcement or regulatory powers exercised in the public interest, such as health, welfare, or safety.

Although the housing authority is a separate entity, its investigatory powers are to be exercised for the purpose, among others, of collecting information and making it available to appropriate agencies for use in furthering and enforcing local ordinances regarding planning, building, and zoning matters.

Hence, such powers are regulatory or enforcement powers of the kind referred to in Rev. Rul. 60-384. Therefore, this organization would not be a clear counterpart of an organization described in section 501(c)(3) of the Code. Compare with Rev. Rul. 74-15, below, and Rev. Rul. 67-290, 1967-2 C.B. 183, which hold that the powers referred to therein are not regulatory or enforcement powers.

Accordingly, the organization does not qualify for exemption under section 501(c)(3) of the Code.