

Promotion of classical music radio programs. A nonprofit organization formed to generate community interest in the retention of classical music programs by a local for-profit radio station by seeking program sponsors, encouraging continuation of contracts by existing sponsors, urging the public to patronize the sponsors, soliciting subscriptions to the station's program guide, and distributing materials promoting the classical music programs, all of which activities tend to increase the station's revenues, does not qualify for exemption under section 501(c)(3) of the Code.

Advice has been requested whether the nonprofit organization described below, which otherwise qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, is operated exclusively for educational purposes.

The organization was formed for the purpose of promoting, maintaining, and enhancing the broadcast of classical music in a particular community. It was formed in response to an announcement by a local for-profit radio station that the station intended to cease broadcasting classical music because of financial difficulty. The organization accomplishes its purpose by engaging in a variety of activities designed to stimulate public interest in the classical music programs of the for-profit station, and thereby enable the station to continue broadcasting such music.

The organization's activities include seeking sponsors for the station from businesses throughout the community, encouraging existing sponsors to continue their contracts with the station, and urging the public to patronize the business establishments of the station's sponsors. In addition, the organization solicits subscriptions to the station's program guide, and prints and distributes pamphlets and bumper stickers encouraging the public to listen to the station's classical music programs. Further, the organization conducts listener surveys, the results of which are presented to the for-profit station to indicate the extent of public support for the classical music programs. The organization's board of directors represent the community at large and does not include any representatives of the for-profit radio station. The organization receives most of its support from the general public.

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

Section 1.501(c)(3)-1(d)(3) of the Income Tax Regulations provides that the term 'educational,' as used in section 501(c)(3) of the Code, relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations states that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Rev. Rul. 64-175, 1964-1 (Part 1) C.B. 185, holds that a corporation organized for the purpose of promoting the dramatic arts qualifies for exemption as an educational organization under section 501(c)(3) of the Code.

Rev. Rul. 64-175 supports the view that a nonprofit organization that preserves and maintains classical music programming in a particular locale is serving an educational purpose. However, in order for such an organization to qualify for exemption under section 501(c)(3) of the Code, it must serve a public rather than a private interest. Although an incidental private benefit will not destroy the qualification of an otherwise educational organization, where an organization is serving both public and private interests the private benefit must be clearly incidental to the overriding public interest. A contrary finding will indicate that the organization is serving a private interest. *Benedict Ginsberg v. Commissioner*, 46 T.C. 47 (1966).

In this case, the organization's activities constitute a public relations campaign designed to enable the for-profit radio station to continue broadcasting classical music. The organization's efforts enable the radio station to increase its total revenues. The increase in listening audience that may occur as a result of the organization's activities would enhance the value and salability of the station's airtime. A similar enhancement is derived through the sale of the station's program directories. Thus, the organization's activities benefit the for-profit radio station in more than an incidental way.

Accordingly, the organization is serving a private rather than a public interest and does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.