

Communal religious organization supported by wages of members.

A communal religious organization that was formed to promote the tenets and practices of a particular church, does not conduct any business activities, and is supported by the wages earned by some of its members from outside employment does not qualify for exemption under section 501(d) of the Code.

Advice has been requested whether a communal religious organization that is supported by wages earned by some of its members from outside employment qualifies for exemption from Federal income tax under section 501(d) of the Internal Revenue Code of 1954 .

The organization was formed to promote the tenets and practices of a particular church. Members of the organization take a vow of poverty, contribute all of their property to a common treasury, live a communal life, and are dependent upon the common treasury for their support. If a member leaves the organization, he is not entitled to any part of the common treasury. The organization does not conduct any business activities and is supported by the wages of some of its members who are engaged in employment outside the community. These members are paid directly by their employers and, in turn, pay the money to the organization's common treasury.

Section 501(d) of the Code provides for the exemption from Federal income tax of religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members. Members, however, must include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

The following excerpt from the legislative history of what is now section 501(d) of the Code indicates the reasons for its enactment:

'It has been brought to the attention of the committee that certain religious and apostolic associations and corporations, such as the House of David and the Shakers, have been taxed as corporations, and that since their rules prevent their members from being holders of property in an individual capacity the corporations would be subject to the undistributed-profits tax. These organizations have a small agricultural or other business. The effect of the proposed amendment is to exempt these corporations from the normal corporations tax and the undistributed-profits tax, if their members take up their shares of the corporations' income on their own individual returns. It is believed that this

provision will give them relief, and their members will be subject to a fair tax.' 80 Cong. Rec. 9074 (1936).

In *Riker v. Commissioner*, 244 F.2d 220, 230 (9th Cir. 1957), cert. denied, 355 U.S. 839, the court in commenting on the type of organization contemplated by the predecessor provision of section 501(d) of the Code said: 'One might assume, then, that Congress intended an association somewhat akin to the ordinary association or partnership in which each member has a definite, though undivided, interest in the business conducted for the common benefit of the members, as well as a common interest in the community treasury and property.' See also Rev. Rul. 57-574, 1957-2 C.B. 161, and Rev. Rul. 58-328, 1958-1 C.B. 327, which describe organizations exempt under section 501(d).

Organizations contemplated by section 501(d) of the Code are those that are supported by internally operated businesses in which all the members have an individual interest. In this case, some of the organization's members earn wages independently from the organization. Because the organization is supported by these wages rather than by an internally operated business, it does not qualify for exemption from Federal income tax under section 501(d).