

Housing; elderly. A nonprofit organization that provides specially designed housing to elderly persons at the lowest feasible cost and maintains in residence those tenants who subsequently become unable to pay its monthly fees is an organization operated exclusively for charitable purposes within the meaning of 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 charitable purposes.

The organization was formed to meet the housing needs of the elderly by building and operating an apartment rental complex designed especially for them. It was formed under the sponsorship of community leaders to meet a community need for such a facility. Its board of directors consists of civic leaders and other individuals with a particular interest in the problems of the elderly.

The complex consists of apartment units that are designed, constructed, and equipped in such a way as to meet the special needs of its elderly residents. It is constructed with fire-resistant materials and is equipped with safety features such as grab bars by bathtubs and toilets, wide entrance-exit doorways, ramps and elevators for wheelchair use, floors designed to help prevent slips and falls, conveniently located electrical outlets and cabinets to avoid strenuous bending or stretching, windows at eye level for residents confined to wheelchairs, and an emergency 24-hour alarm system.

The complex has an employee on duty 24 hours a day who gives temporary aid in emergencies, contacts professional help (doctor, ambulance service, etc.) and ensures that the steps necessary to render aid are carried out. The complex also provides transportation for medical examination and follow-up treatment.

The complex contains a lounge and indoor and outdoor recreation areas. The resident manager coordinates a recreational and social program for the residents.

Admission to the complex is generally limited to persons who are at least 65 years of age.

While the initial funds for building and equipping the facility were provided by both governmental and foundation grants, the organization is self-supporting in that its operating funds are derived principally from fees charged for residence in the facility. The organization admits as tenants only elderly persons who are able to pay the full stated rental charges. The rental charges are set at a level within the financial reach of a significant segment of the community's elderly persons. However,

once persons are admitted to the facility, the organization is committed by established policy to maintaining them as residents, to the extent it is able, even if they subsequently become unable to pay its monthly charges. It effectuates this policy by maintaining such individuals out of its own reserves, by seeking whatever support is available under local and Federal welfare programs, by soliciting contributions from the general public, or by using some combination of these means.

The organization provides services to its elderly residents at the lowest feasible cost. Its receipts are used exclusively in furtherance of its stated purposes. Its charges are set at an amount sufficient to maintain reserves adequate to pay for the life care of any of its residents who may require it, and to enable it to set aside enough for a limited amount of expansion sufficient to meet the community's needs. Net earnings are thus generally used to improve the specialized services and facilities provided, to subsidize any resident unable to continue making his monthly payments, or to expand the facility where the needs of the community warrant such expansion. No part of the organization's net earnings inures, directly or indirectly, to the benefit of any private shareholder or individual. No employee receives more than reasonable compensation for services rendered.

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

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations states that the term 'charitable' is used in section 501(c)(3) of the Code in its generally accepted legal sense. Such term includes the relief of the poor and distressed.

Revenue Ruling 72-124, 1972-1 C.B. 145, sets forth requirements that homes for the aged must meet in order to qualify for exemption under section 501(c)(3) of the Code. The Revenue Ruling makes clear that a home for the aged will be deemed 'charitable' if it meets the special needs of the elderly such as the need for health care, financial security, and residential facilities designed to meet specific physical, social, and recreational requirements of the elderly. Such a home need not provide direct financial assistance to the elderly in order to be 'charitable,' since poverty is only one form of distress to which the elderly as a class are particularly susceptible.

Thus, when an organization that otherwise qualifies for exemption under section 501(c)(3) of the Code provides specially designed housing as described above that is within the financial reach of a significant segment of the community's elderly persons, and when the organization commits itself to operating such housing at the lowest feasible cost (consistent with its maintaining the reserve described above) and to maintaining in residence those tenants who become unable to pay its monthly fees, such organization is operated to relieve the major forms of distress to

which the elderly are susceptible. Accordingly, it qualifies for exemption from federal income tax under section 501(c)(3) as an organization operated exclusively for charitable purposes.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. See sections 1.501(a)-1 and 1.508-1(a) of the regulations.

In accordance with the instructions to Form 1023, the application should be filed with the District Director of Internal Revenue for the key district indicated therein.