

Civic: social welfare; firefighters' association. A nonprofit firefighters' association that provides firefighters with retirement benefits, which are funded by government sources and which are the exclusive retirement benefits provided to these firefighters, qualifies for exemption as a social welfare organization described in section 501(c)(4) of the Code. Rev. Rul. 81-58 distinguished.

ISSUE

Does the nonprofit firefighters' association described below, which is engaged in providing retirement benefits to members, qualify for exemption from federal income tax under section 501(c)(4) of the Internal Revenue Code as a social welfare organization?

FACTS

An association of firefighters employed by a community fire department was established and is maintained by the local government to provide retirement benefits for certain of its firefighters. Only firefighters who were employed by the local government prior to the effective date of the civil service retirement program provided by the state and local governments are members of the association. Membership of these firefighters in the association is automatic. The association is the exclusive provider of retirement benefits to these individuals and such benefits are similar in kind and amount to the benefits that the state and local governments provide under the civil service retirement program and that in other communities are also provided and funded by the state and local governments.

Over seventy-five percent of the association's income consists of amounts received from the state and local governments and of investment income on such amounts. The association also receives amounts from membership dues and assessments, contributions from the general public, and fundraising activities.

The association's funding, financing, and eligibility requirements are governed by an act of the state legislature. The local government is represented on the association's board of directors, retains the ultimate authority to approve changes in the association's benefit plan, participates in the association's investment process, and is required to approve all significant expenditures of the association.

LAW AND ANALYSIS

Section 501(c)(4) of the Code provides for the exemption from federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion

of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one that is operated primarily for the purpose of bringing about civic betterments and social improvements.

Rev. Rul. 75-199, 1975-1 C.B. 160, provides that a nonprofit organization that (a) restricts its membership to individuals of good moral character and health who belong to a particular ethnic group residing in a stated geographical area and (b) provides sick benefits to members and death benefits to beneficiaries of deceased members does not qualify for exemption under section 501(c)(4) of the Code, because the benefit to the community at large is minor and incidental. Membership dues are the primary source of support of the organizations.

Rev. Rul. 81-58, 1981-1 C.B. 331, provides that a nonprofit association of police officers that is primarily engaged in providing retirement benefits to members and death benefits to beneficiaries of members does not qualify for exemption under section 501(c)(4) of the Code because the primary benefits from the organization are limited to its members, while there is only an incidental benefit to the community. The association's benefit program serves as a supplement to the civil service benefit program provided by the political subdivision in which the police officers are employed. Also, the association's primary sources of income are from contributions by the general public and amounts raised in fundraising events.

An organization similar to the organization described in Rev. Rul. 81-58 was the subject of litigation in *Police Benevolent Association of Richmond, Virginia v. United States*, 661 F. Supp. 765 (E.D. Va. 1987). The organization was held not to be exempt under section 501(c)(4) of the Code.

The association in this situation is similar to the organizations in Rev. Rul. 81-58 and in the *Police Benevolent Association of Richmond, Virginia* case in that the class of individuals receiving benefits is restricted to individuals engaged in the performance of essential and hazardous public services that are uniquely beneficial to their respective communities. However, Rev. Rul. 81-58, and the *Police Benevolent Association of Richmond, Virginia* case are distinguishable because this association was established and is maintained by the local government, and the benefits provided are funded primarily by the state and local governments. In addition, the association's funding, financing, and eligibility requirements are governed by state law, membership in the association is automatic for those individuals who satisfy the applicable eligibility conditions, and the local government retains

authority over the significant activities of the association. Further, the benefits provided by this association are the exclusive retirement benefits provided to firefighters hired before the civil service retirement system was instituted by the state and local governments. In this regard, the association is providing a retirement benefit similar to that provided to firefighters in this community hired after the effective date of the civil service retirement system, and in other communities by other state and local governments. The organizations described in Rev. Rul. 81-58, and the Police Benevolent Association of Richmond, Virginia case, on the other hand, were established by their members who control their operations and provided benefits that supplement benefits provided to these individuals by political subdivisions.

This association is providing a benefit of a type and in an amount that the local government has decided is sufficiently in the public interest to be recognized as a legitimate function of government, as evidenced by its and the state government's willingness to fund the association and by the establishment of a civil service retirement program to provide comparable benefits. Therefore, the association is serving the common good and general welfare of the people of the community within the meaning of section 1.501(c)(4)-1(a)(2)(i) of the regulations.

This ruling contains no inference as to the application of sections 83, 402(b), and 457 of the Code to this fact situation.

HOLDING

The nonprofit firefighters' association described above, which is engaged in providing retirement benefits to members, qualifies for exemption from federal income tax under section 501(c)(4) of the Code as a social welfare organization.

EFFECT ON OTHER DOCUMENTS

Rev. Rul. 81-58 is distinguished.

APPLICATION INSTRUCTIONS

Even though an organization considers itself within the scope of this revenue ruling, it must file an application on Form 1024, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(4) of the Code. See section 1.501(a)-1 of the Income Tax Regulations.

In accordance with the instructions to Form 1024, the application should be filed with the key District Director of Internal Revenue for the key district indicated therein.