IRC 501(c)(4) Organizations

By John Francis Reilly, Carter C. Hull, and Barbara A. Braig Allen

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Overview

Purpose

This article discusses issues relating to the tax-exempt status under IRC 501(c)(4) of civic leagues, social welfare organizations, and local associations of employees. As of March 31, 2002, there were 121,170 organizations recognized as tax-exempt under IRC 501(c)(4).

Rules relating to the political campaign and lobbying activities of IRC 501(c)(4) organizations are the subject of a separate article.

In This Article

This article contains the following topics.

Statutory Provisions

The Statute

IRC 501(c)(4) provides for exemption of:

- Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

- Local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

The statutory terms disclose that IRC 501(c)(4) embraces two general classifications:

a. Social welfare organizations, and

b. Local associations of employees.

Statutory History

The predecessor of IRC 501(c)(4) was enacted as part of the Tariff Act of 1913. Tariff Act of 1913, ch. 16, § II (G)(a), 38 Stat. 172. We have no legislative comment on the statute. It is generally assumed, however, that its enactment was the result of a U.S. Chamber of Commerce request for an exemption for "civic and commercial" organizations. See Hearings on Tariff Schedules of the Revenue Act of 1913 Before the Subcomm. of the Comm. on Finance, 63d Cong., 1st Sess. at 2001. (1913).

- In 1924, the statute was amended to include local associations of employees because these organizations had been denied exempt status on the basis that they provided services to a limited group of beneficiaries. Revenue Act of 1924, ch. 234, § 231(8), 43 Stat. 282; Staff of the Senate Comm. on Finance, Statement of the Changes Made in the Revenue Act of 1921 by H.R. 6715 and the Reasons Therefore, "Gregg Statement," Comm. Print. 68th Cong. 1st Sess. at 23 (1924).

- Effective September 14, 1995, organizations exempt under IRC 501(c)(4) may not allow any part of their net earnings to inure to the benefit of any private shareholder or individual.

  Further, insiders and organization managers may be subject to the excise tax imposed by IRC 4958 if assets or services are provided to insiders for less than fair market value. Taxpayer Bill of Rights 2, Pub. L. No. 168, § 1311(a), 104th Cong. 2d Sess (1996), 110 Stat. 1452.

Social Welfare Organizations

Introduction

Reg. 1. 501(c)(4)-1(a)(2)(i) provides that:

> [A]n 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 community.

- Obviously the language of both the statute and the regulations comprehends a very broad category of organizations. As stated in the 1981 CPE text, Chapter G, "Social Welfare: What Does It Mean? How Much Private Benefit Is Permissible?"

> Although the Service has been making an effort to refine and clarify this area, IRC 501(c)(4) remains in some degree a catch-all for presumptively beneficial non-profit organizations that resist classification under the other exempting provisions of the Code. Unfortunately, this condition exists because "social welfare" is inherently an abstruse concept that continues to defy precise definition.

- The general concept, however, can be expressed as follows:

  - Organizations that promote social welfare should primarily promote the common good and general welfare of the people of the community as a whole.

  - An organization that primarily benefits a private group of citizens cannot qualify for IRC 501(c)(4) exempt status.

In Erie Endowment v. United States, 316 F.2d 151, 156 (2d Cir. 1963), the court, in defining a civic organization, summed up the matter by stating that "the organization must be a community movement designed to accomplish community ends."

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Social Welfare Organizations, Continued

A Note on Services to Members

While some activities promote social welfare only if the community as a whole is the recipient of services, a membership organization is not automatically precluded from exempt status under IRC 501(c)(4).

In the exceptional case, an organization whose services are made available solely to its members may qualify. In such cases, it must be clearly established that making the service available to the membership benefits the community as a whole.

Precedents Illustrating Community Benefit

Precedents:

- An organization that purchases acreage in a stated locality, makes arrangements for water and sewage facilities and enters into arrangements for the erection and sale of dwellings to low and moderate income individuals qualifies as a social welfare organization. Rev. Rul. 55-439, 1955-2 C.B. 257.

- A corporation organized for the purpose of rehabilitating and placing unemployed persons over a stated age may be exempt as an organization operated exclusively for the promotion of social welfare. Although substantial private benefit to the unemployed individuals exists, the community benefit found in employing those individuals is dominant. Rev. Rul. 57-297, 1957-2 C.B. 307.

- A corporation formed to provide a school district with a stadium is exempt as an organization operated for the promotion of social welfare. Title to the stadium is to be transferred to the school district after all indebtedness has been liquidated and its capital stock retired, with no profit to the stockholders. Rev. Rul. 57-493, 1957-2 C.B. 314.

- A corporation was formed to cooperate with the parent-teacher association of a local school district. Its activity consists of reviewing the proposals of and designating the insurance company allowed to solicit accident insurance from the students, teachers, and other employees of the school district. It qualifies for tax-exempt status under IRC 501(c)(4). Rev. Rul. 61-153, 1961-2 C.B. 114.

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Social Welfare Organizations, Continued

Precedents Illustrating Community Benefit, continued

- A corporation organized to aid and promote the purposes of the Area Redevelopment Act by providing loans to purchase or develop lands and facilities to alleviate unemployment in areas classified as "redevelopment areas" is entitled to exempt status as an organization described in IRC 501(c)(4). Rev. Rul. 64-187, 1964-1 (Part 1) C.B. 187.

- A memorial association organized to study and develop methods of achieving simplicity and dignity in funeral and memorial services, educate and inform its members as well as the public as to the results of such study, and maintain a registry for the wishes of its members in regard to arrangements following death is entitled to exemption as a social welfare organization described in IRC 501(c)(4). The organization serves a social welfare purpose through education of the public and providing a useful service to the community (membership is available to everyone) on a noncommercial basis. Rev. Rul. 64-313, 1964-2 C.B. 146.

- A junior chamber of commerce operated exclusively for the purpose of rendering civic services for the promotion of the welfare of the community and its citizens is exempt from federal income tax as an organization described in IRC 501(c)(4). Its various programs, such as activities on behalf of youth, community benefit projects, and community leadership training, promote the common good and general welfare of the people of the community. However, ordinary chambers of commerce, which are organized to promote the business interests of a community, instead generally qualify for exemption under IRC 501(c)(6). Rev. Rul. 65-195, 1965-2 C.B. 164.

- An organization formed to advise, counsel, and assist individuals in solving their financial difficulties by budgeting their income and expenses and effecting an orderly program for the payment of their obligations is entitled to exemption from federal income tax as a social welfare organization described in IRC 501(c)(4). The objective and activities of the organization contribute to the betterment of the community as a whole and are therefore regarded as promoting social welfare. Rev. Rul. 65-299, 1965-2 C.B. 165.

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Social Welfare Organizations, Continued

Precedents Illustrating Community Benefit, continued

- An organization formed for the purpose of establishing and maintaining a system for storage and distribution of water in order to increase underground water levels of a community is entitled to exemption from tax under IRC 501(c)(4) as an organization operated exclusively for the promotion of social welfare. The organization's activities benefited all residents of the community whose wells were supplied by the raised water table. Rev Rul. 66-148, 1966-1 C.B. 143.

- An organization may qualify for exemption from federal income tax under IRC 501(c)(4) where it provides a community with supervised facilities for rifle, pistol, and shotgun practice and instructions in the safe handling and proper care of weapons. Rev. Rul. 66-273, 1966-2 C.B. 222.

- An organization formed to operate a roller skating rink as a recreational facility for the benefit and use of all of the residents of a particular country in a county-owned building that it operates rent-free in cooperation with the county government may qualify for exemption under IRC 501(c)(4) where the rink is open to the general public upon payment of such nominal dues and admission charges as are needed to defray operating expense. Rev. Rul. 67-109, 1967-1 C.B.136.

- An organization created to make loans to businesses as an inducement to locate in an economically depressed area in order to alleviate a community's unemployment may be exempt under IRC 501(c)(4) because "promotion of social welfare" includes efforts to relieve unemployment by inducing industry to locate in a community. Rev. Rul. 67-294, 1967-2 C.B. 193.

- An organization that stimulates the interest of youth in the community by furnishing virtually free admission to youths and encouraging their attendance at sporting events may qualify for exemption under IRC 501(c)(4). Rev. Rul. 68-118, 1968-1 C.B. 261.

- An organization that conducts an annual festival centered around regional customs and traditions may qualify for exemption under IRC 501(c)(4). The organization provides the community with recreation and provides a means for citizens to express their interest in the community's history, customs, and traditions. Rev. Rul. 68-224, 1968-1 C.B. 262.

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Social Welfare Organizations, Continued

Precedents Illustrating Community Benefit, continued

- Beautification of public areas - A nonprofit organization with membership limited to the residents and business operators within a city block and formed to preserve and beautify the public areas in the block, thereby benefiting the community as a whole as well as enhancing the value of its members' property rights, will not qualify for exemption under IRC 501(c)(3) but may qualify under IRC 501(c)(4). Rev. Rul. 75-286, 1975-2 C.B. 210.

    - Rev. Rul. 68-14, 1968-1 C.B. 243, which holds that an organization formed for the beautification of an entire city is operated exclusively for charitable purposes and thus qualifies for tax-exempt status under IRC 501(c)(3), is distinguished.

- An organization that carries on activities in the general areas of public safety and crime prevention, housing and community development, recreation, and community services is exempt under IRC 501(c)(4). Membership in the organization is open to any interested person or business enterprise in the community and the benefits of its activities were extended to both members and nonmembers on equal terms. The holding is based on the conclusion that by carrying on its activities, including contracting for security patrols designed to increase public safety and reduce crime in the community, the organization is promoting the common good and general welfare of the people of the community. Rev. Rul. 75-386, 1975-2 C. B. 211.

    - Compare Rev. Rul. 77-273, 1977-2 C.B. 194, which holds that a nonprofit organization providing security services for residents and property owners of a particular community, who agree to pay at a specified hourly rate to defray the cost of the services, does not qualify for exemption under IRC 501(c)(4) because it is providing security services in return for compensation the organization is carrying on a business with the general public in a manner similar to organizations operated for profit.

- An organization that processes consumer complaints concerning products and services provided by business establishments, meets with the parties involved to encourage resolution of the problem, recommends a fair solution and if the proposed solution is not accepted, informs the parties about appropriate judicial or administrative bodies that may be used to resolve the disputes qualifies for exemption under IRC 501(c)(4). Rev. Rul. 78-50, 1978-1 C.B. 155.

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Social Welfare Organizations, Continued

Precedents Illustrating Community Benefit, continued

- An organization formed by residents of a suburban community to provide bus transportation during rush hours between the community and the major employment center in a metropolitan area is exempt under IRC 501(c)(4). Regular bus service was inadequate during rush hours. Because revenue from fares was not sufficient to meet expenses, the organization sought and received financial assistance from different governmental units to enable it to continue operation of the bus service. The organization was supervised by an uncompensated board of directors elected by community residents, and its meetings are publicized in advance and are open to all residents. These factors indicated that the organization was not carrying on a business with the general public in a manner similar to organizations operated for profit, but instead was promoting social welfare within the meaning of Reg. 1.501(c)(4)-l (a)(2). Rev. Rul. 78-69, 1978-1 C.B. 156.

- An organization whose purpose is to develop and encourage interest in painting, sculpture, and other art forms by conducting, in a noncommercial manner, a community art show qualifies for exemption as an organization operated exclusively for the promotion of social welfare under IRC 501(c)(4). Rev. Rul. 78-131, 1978-1 C.B. 156.

- An organization that operates an airport in a rural area that has no other airport, and which is essential to the economy of the area, is exempt under IRC 501(c)(4). The use of volunteer services and the receipt of government grants, as well as overall supervision and control by a municipality, support the conclusion that the organization is not carrying on a business with the general public in a manner similar to organizations operated for profit. Rev. Rul. 78-429, 1978-2 C.B. 178.

- An organization that tries to prevent liquid spills, primarily of oil, and contain and clean up spills within a city port area is exempt under IRC 501(c)(4) if its services are equally available to members and nonmembers and the charges are the same. Rev. Rul. 79-316, 1979-2 C.B. 228.

    - Rev. Rul. 79-316 contrasts the situation it describes with the Contracting Plumbers case (described below under "Precedents Illustrating Private Benefit") where exemption was denied to an organization that made repairs to damaged property only if the property was damaged by its members.

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Social Welfare Organizations, Continued

Precedents Illustrating Community Benefit, continued

- The Service will not follow the decision in Eden Hall Farm v. United States, 389 F. Supp. 858 (W.D. Pa. 1975), which held that an organization providing recreational facilities to the employees of selected corporations qualifies for exemption as a social welfare organization described in IRC 501(c)(4). Rev. Rul. 80-205, 1980-2 C.B. 184. In setting forth this position Rev. Rul. 80-205 states:

  > There is no requirement that a section 501(c)(4) organization provide equal benefits to every member of the community. The organization described in Rev. Rul. 78-69 [1978-1 C.B. 156] that provides rush hour commuter bus service benefits only to those individuals who have a need for that service. Similarly, an organization providing a particular type of recreational facility benefits only those who enjoy that type of recreation. Such limitations are inherent in the activities that are undertaken to promote social welfare.
  >
  > In [Eden Hall], however, the organization imposed limitations on the use of its facility other than those that were inherent in the nature of the facility. By restricting use of the facility to employees of selected corporations and their guests, the organization is primarily benefiting a private group rather than primarily benefiting the common good and general welfare of the community.

Published Precedents Illustrating Private Benefit

- An organization that provides antenna service only to its members to enable them to receive television is not exempt as a civic league. Rev. Rul. 54-394, 1954-2 C.B. 131. See also Rev. Rul. 55-716, 1955-2 C.B. 263. Under the organization's method of operation, only members receive the television signal by closed circuit. Therefore, the organization operates for the benefit of its members rather than for the benefit of the community.

  - However, an antenna service that provides signals to any television receiver in the community is exempt under IRC 501(c)(4) since it benefits the community as a whole rather than just the members. Rev. Rul. 62-167, 1962-2 C.B. 142.

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Social Welfare Organizations, Continued

Published Precedents Illustrating Private Benefit, continued

- An organization, created exclusively for the promotion of social welfare, that conducts weekly drawings among members of the general public as its principal activity and uses the profits therefrom primarily for the payment of its general expenses is not entitled to exemption as an organization described in IRC 501(c)(4). Rev. Rul. 61-158, 1961-2 C.B. 115.

- In American Women Buyers Club, Inc. v. Commissioner, 238 F.2d 526 (2nd Cir. 1964), the court affirmed denial of exemption to a membership corporation of female ready-to-wear buyers organized to promote the general good and welfare of members in the trade, encourage friendly relations, and give aid to members in distress. Membership, even within the trade, was restrictive as approximately 15 percent of the applicants were rejected. The services provided by the club (such as employment facilities, information about sources of supply, lectures, dinners, installations, publications, and sick and death benefits) were all primarily, if not exclusively, for the club membership. The court commented on the activities of the organization as follows:

  > [O]pportunities for recreation and for vocational advancement, enjoyable solely by the membership of a tight little trade association, do not promote social welfare within the meaning of the statute. Id. at 532.

- An organization established by a collective bargaining agreement between an association of manufacturers and a labor union to collect federal and state employment taxes that the manufacturers are required to deduct from the wages of their unionized employees and pay over such collected amounts to the appropriate tax authorities does not qualify for exemption under IRC 501(c)(4), (c)(5), (c)(6), or (c)(9). Rev. Rul. 66-354, 1966-2 C.B. 207.

- In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2nd Cir. 1973), cert. denied, 419 U.S. 827 (1974), an organization whose purpose was to ensure the efficient repair of "cuts" in city streets which resulted from its members' plumbing activities did not qualify for exemption under IRC 501(c)(4). The court concluded that there were several factors that evidenced the existence of a substantial nonexempt purpose. The factors included, but were not limited to, the members' substantial business interest in the organization's formation and the fact that each member of the cooperative enjoyed economic benefits precisely to the extent they used and paid for restoration services.

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Social Welfare Organizations, Continued

Published Precedents Illustrating Private Benefit, continued

- An organization formed to purchase groceries for its membership at the lowest possible prices on a cooperative basis is not exempt as a social welfare organization. Rev. Rul. 73-349, 1973-2 C.B. 179.

- Organizations that provide life, sickness, and accident benefits for their members do not qualify under IRC 501(c)(4) because their activities primarily benefit their members. Rev. Rul. 75-199, 1975-1 C.B. 160, which modified Rev. Rul. 55-495, 1955-2 C.B. 259. See also, New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970).

  Police and fire relief associations are discussed later in this article.

- An organization established by merchants which operates a public parking facility that provides parking for the merchants' customers free or at reduced rates does not qualify under IRC 501(c)(4), because it primarily serves the private interests of the merchants and is a business. Rev. Rul. 78-86, 1978-1 C.B. 152. As stated in the revenue ruling, the Service does not follow the decision in Monterey Public Parking Corporation v. United States, 481 F. 2d 175 (9th Cir. 1973), which held that an organization established by merchants to operate a public off-street parking facility that provides free or reduced rate parking for the merchants' customers qualifies as exempt under IRC 501(c)(3) or 501(c)(4). The Service reasons that although there may be some public benefit, the organization serves the private interests of the merchants by encouraging the public to patronize their stores and is carrying on a business with the general public in a manner similar to organizations that operate for profit. Therefore, it is not operated primarily for social welfare purposes.

  - On the other hand, an organization whose membership is open to the community and that provides free parking to anyone visiting the city's downtown business district, is contributing to civic betterment by relieving congested parking conditions and therefore qualifies for IRC 501(c)(4) exempt status. Rev. Rul. 81-116, 1981-1 C.B. 333.

- Personal service cooperative - a community cooperative organization formed to facilitate the exchange of personal services among members is operating primarily for the private benefit of its members and is not exempt from federal tax as a social welfare organization under IRC 501(c)(4). Rev. Rul. 78-132, 1978-1 C.B. 157.

Homeowners' and Tenants' Associations

Introduction

A homeowners' association is an organization that consists of all lot owners in a certain development and that enforces covenants for preserving the architecture and appearance of the development.

- Membership is usually compulsory.
- Generally, it also owns and maintains certain green areas and sidewalks.
- Depending on its activities, a homeowners' association may qualify for exemption from federal income tax as an organization described in IRC 501(c)(4), IRC 501(c)(7), or IRC 528.

Of the three routes to tax-exempt status, IRC 501(c)(4) imposes the strictest standard. To be described in IRC 501(c)(4), a homeowners' association must primarily serve the community rather than the private interests of its members. Therefore, the principal obstacle to exemption is the degree of private benefit involved in the operation of the homeowners' association.

Lake Forest

The leading case in the area of homeowners' associations is Commissioner v. Lake Forest, Inc., 305 F. 2d 814 (1962), which arose under the predecessor of IRC 501(c)(4), § 101(8) of the 1939 Code. Lake Forest was a nonprofit membership-housing cooperative organized by World War II veterans and others. It provided low cost housing to its members. Focusing on the words of the statute, the court concluded that Lake Forest was not "civic," but simply a private cooperative organization; that its operation was not a work of "social welfare," but a private economic enterprise; and that even if its objects included a contribution to social welfare, that was not its aim "exclusively."

- The holding in Lake Forest is reflected in Rev. Rul. 69-280, 1969-1 C.B. 152. The organization discussed in Rev. Rul. 69-280 was formed to provide maintenance of exterior walls and roofs of homeowner members in a development. In concluding that the organization does not qualify for IRC 501(c)(4) exemption as a social welfare organization, the revenue ruling finds the organization's operations to be similar to Lake Forest in that both were fundamentally self-help enterprises. Rev. Rul 69-280 concludes:

  > The organization here described is performing services that its members would otherwise have to provide for themselves It is a private cooperative enterprise for the economic benefit or convenience of the members.

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Homeowners' and Tenants' Associations, Continued

Rev. Rul. 72-102

Rev. Rul. 72-102, 1972-1 C.B 149, attempted to enunciate standards that could be used to determine whether a homeowners' association could qualify (or maintain) IRC 501(c)(4) exempt status.

- The organization described in Rev. Rul. 72-102 is a membership organization formed by a developer.
- It is operated to administer and enforce covenants for preserving the architecture and appearance of a housing development, and to own and maintain common green areas, streets, and sidewalks for the use of all development residents.
- Prospective homebuyers are advised that membership in the organization is required of all owners of real property within the housing development.
- The organization is supported by annual assessments and member contributions. Its activities are for the common benefit of the whole development rather than for individual residents or the developer.

Rev. Rul. 72-102 concludes as follows:

> For the purposes of section 501(c)(4) of the Code, a neighborhood, precinct, subdivision, or housing development may constitute a community. For example, exempt civic leagues in urban areas have traditionally represented neighborhoods or other subparts of much larger political units. By administering and enforcing covenants, and owning and maintaining certain non-residential, non-commercial properties of the type normally owned and maintained by municipal governments, this organization is serving the common good and the general welfare of the people of the entire development. Even though the organization was established by the developer and its existence may have aided him in selling housing units, any benefits to the developer are merely incidental. Also, even though the activities of the organization serve to preserve and protect property values in the community, these benefits that accrue to the property owner-members are likewise incidental to the goal to which the organization's activities are directed, the common good of the community. Therefore, it is held that the organization is exempt from Federal income tax under section 501(c)(4) of the Code.

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Homeowners' and Tenants' Associations, Continued

Rev. Rul. 72-102, continued

Revenue Ruling 69-280, C.B. 1969-1, 152, which holds that a non-profit organization formed to provide maintenance of exterior walls and roofs of members' homes in a development is not exempt under section 501(c)(4) of the Code, is distinguished because that organization was operated primarily and directly for the benefit of individual members rather than for the community as a whole.

Rev. Rul. 74-17

Rev. Rul. 74-17, 1974-1 C.B. 130, discusses a condominium housing association and reaches an adverse conclusion under IRC 501(c)(4). Rev. Rul. 74-17 finds that homeowners' associations and condominium associations, even though they furnish similar services, are essentially different, and must be treated differently for purposes of IRC 501(c)(4). Rev. Rul. 74-17 concludes as follows:

> By virtue of the essential nature and structure of a condominium system of ownership, the rights, duties, privileges, and immunities of the members of an association of unit owners in a condominium property derive from, and are established by, statutory and contractual provisions and are inextricably and compulsorily tied to the owner's acquisition and enjoyment of his property in the condominium. In addition, condominium ownership necessarily involves ownership in common by all condominium unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners.

Rev. Rul. 74-99

After publication of Rev. Rul. 72-102, it became apparent its standard of "community" was being equated with a single housing development.

There was also concern that Rev. Rul 72-102 made no mention of recreational facilities (none were present in the underlying case).

Additionally, the term "common areas" needed more precise definition to prevent liberal interpretations that might encompass areas that are really little more than extensions of privately owned property

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Homeowners' and Tenants' Associations, Continued

Rev. Rul. 74-99, continued

Rev. Rul. 74-99, 1974-1 C.B. 131, modifies Rev. Rul 72-102. Rev. Rul 74-99 describes the typical organization and the threshold problem as follows:

> The characteristics of the organization of homeowners described in Rev. Rul. 72-102 are generally typical of many such organizations formed in recent years that seek exemption under section 501(c)(4) of the Code and may be summarized as follows: The organization is formed by a commercial real estate developer as an integral part of a plan for the development of a subdivision. Membership in the association is required of all purchasers of lots in the development. Membership is open only to the developer (at least for such time as he owns property in the development) and those who purchase lots. The organization is supported by periodic assessments against the members and an unpaid assessment constitutes a lien on the property of the homeowner-member. The stated purposes of the organization are, generally speaking, to administer and enforce covenants for preserving the architecture and appearance of the given real estate development, and to own and maintain common green areas, streets, and sidewalks.
>
> The foregoing format is spelled out in written documents that form a part of, and are inextricably tied to, enforceable contracts for the sale and purchase of private property. In the light of this combination of factors, the *prima facie* presumption is that these organizations are essentially and primarily formed and operated for the individual business or personal benefit of their members, and, as such, do not qualify for exemption under section 501(c)(4) of the Code. However, an organization of this kind may in certain circumstances overcome the presumption and qualify for recognition of exemption under section 501(c)(4).

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Homeowners' and Tenants' Associations, Continued

Rev. Rul. 74-99, continued

Essentially, Rev. Rul. 74-99 concludes that to overcome the presumption, to qualify for exemption under IRC 501(c)(4), a homeowners' association:

- Must serve a "community" which bears a reasonably recognizable relationship to an area ordinarily identified as governmental,
- Must not conduct activities directed to the exterior maintenance of private residences, and
- The common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

On the issue of "community," Rev. Rul. 74-99 states as follows:

> A community within the meaning of section 501(c)(4) of the Code and the regulations is not simply an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein. Although an exact delineation of the boundaries of a "community" contemplated by section 501(c)(4) is not possible, the term as used in that section has traditionally been construed as having reference to a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof.

Rev. Rul. 80-63

Rev. Rul. 80-63, 1980-1 C.B. 116, was issued to discuss, in question and answer format, certain issues raised by Rev. Rul. 74-99.

Rev. Rul. 80-63 ***Question 1***

Does Rev. Rul. 74-99 contemplate that the term "community" for purposes of section 501(c)(4) of the Code embraces a minimum area or a certain number of homeowners?

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Homeowners' and Tenants' Associations, Continued

Rev. Rul. 80-63
Answer

No. Rev. Rul. 74-99 states that it was not possible to formulate a precise definition of the term "community." The ruling merely indicates what the term is generally understood to mean.

Whether a particular homeowners' association meets the requirements of conferring benefit on a community must be determined according to the facts and circumstances of the individual case. Thus, although the area represented by an association may not be a community within the meaning of that term as contemplated by Rev. Rul. 74-99, if the association's activities benefit a community, it may still qualify for exemption.

- For instance, if the association owns and maintains common areas and facilities for the use and enjoyment of the general public as distinguished from areas and facilities whose use and enjoyment is controlled and restricted to members of the association then it may satisfy the requirement of serving a community.

Rev. Rul. 80-63
Question 2

May a homeowners' association, which represents an area that is not a community, qualify for exemption under section 501(c)(4) of the Code if it restricts the use of its recreational facilities, such as swimming pools, tennis courts, and picnic areas, to members of the association?

Rev. Rul. 80-63
Answer

No. Rev. Rul. 74-99 points out that the use and enjoyment of the common areas owned and maintained by a homeowners' association must be extended to members of the general public, as distinguished from controlled use or access restricted to the members of the association.

- For purposes of Rev. Rul. 74-99, recreational facilities are included in the definition of "common areas."

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Homeowners' and Tenants' Associations, Continued

Rev. Rul. 80-63 ***Question 3***	Can a homeowners' association establish a separate organization to own and maintain recreational facilities and restrict their use to members of the association?
Rev. Rul. 80-63 ***Answer***	**Yes**. An affiliated recreational organization that is operated totally separate from the homeowners' association may be exempt. See Rev. Rul. 69-281, 1969-1 C.B. 155, which holds that a social club providing exclusive and automatic membership to homeowners in a housing development, with no part of its earnings inuring to the benefit of any member, may qualify for exemption under section 501(c)(7) of the Code.
Rev. Rul. 80-63 ***Question 4***	Can an exempt homeowners' association own and maintain parking facilities only for its members if it represents an area that is not a community?
Rev. Rul. 80-63 ***Answer***	**No**. By providing the facilities only for the use of its members the association is operating for the private benefit of its members, and not for the promotion of social welfare within the meaning of section 501(c)(4) of the Code.
Flat Top Lake Association	In Flat Top Lake Association v. United States, 868 F.2d 108 (4th Cir. 1989), the court concluded that a homeowners' association that encompassed a very large area but restricted use of its facilities to its members does not qualify for exemption under IRC 501(c)(4).
Summary of the "Community" Issue	The above-cited authorities disclose that the Service will not accept the position that an association's geographic area constitutes a "community," as that term is used in Rev. Rul. 74-99, without some showing that the association is, in the words of the Flat Top Lake opinion, "an active part of society [rather than] a private refuge for those who would live apart." Id. at 113.
Rev. Rul. 75-286	Although an association may not benefit a "community" within the meaning of Rev. Rul. 74-99, if its activities are not limited to its members, but are directed to the general public, it can qualify for exemption under IRC 501(c)(4). That is the message of Rev. Rul. 75-286, 1975-2 C.B. 210.

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Homeowners' and Tenants' Associations, Continued

Rev. Rul. 75-286, continued

Rev. Rul. 75-286 concludes that an organization formed by the residents of a city block to preserve and beautify that block may qualify for exemption under IRC 501(c)(4), even though the element of private benefit is sufficient to disqualify it from exempt status under IRC 501(c)(3). Its activities include paying the city government to plant trees in public areas, picking up litter and refuse and placing shrubbery in the block's public areas.

Although membership was restricted to residents of the block, owners of property or individuals doing business there, the activities improved public property. The salient conclusion here is that even though the organization's activities were limited to a single block, the community benefited from such activities.

The IRC 501(c)(7) Alternative

A homeowners' association whose primary function is to own and maintain certain recreational areas and facilities may opt for exemption as a social club under IRC 501(c)(7) rather than as a social welfare organization under IRC 501(c)(4).

- This alternative may prove to be desirable where the association seeks to restrict use of its facilities to members, offers incidental community benefits, and has little or no nonmember income that is subject to tax under IRC 512(a)(3). Rev. Rul. 69-281, 1969-1 C.B. 155, and Rev. Rul. 80-63 provide the authority for this position.

- However, as noted in Rev. Rul. 75-494, 1975-2 C.B. 214, a homeowners' association may not qualify under section 501(c)(7) if it owns and maintains residential properties that are not a part of its social facilities, administers and enforces covenants for preserving the architecture and appearance of the housing development, or provides the development with fire and police protection.

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Homeowners' and Tenants' Associations, Continued

The IRC 528 Alternative

IRC 528, as added by § 2101 of the Tax Reform Act of 1976, P.L. 94-455, 90 Stat. 1525, provides an elective exemption for certain homeowners associations that are described in IRC 528(c). This Code provision was enacted because many homeowners associations found it difficult to meet the requirements for exemption under IRC 501(c)(4).

IRC 528 exempts from income tax any dues and assessments received by a qualified homeowners' association that are paid by property owners who are members of the association, where the assessments are used for the maintenance and improvement of association property. Thus, all homeowners' associations described therein may be granted a sort of quasi-exempt status by virtue of their own election.

IRC 528 defines a "homeowners' association" as an organization which is a condominium management association or a residential real estate management association if:

- It is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property,
- It elects to have the section apply for the taxable year,
- No part of the net earnings of the association inures to any private shareholder or individual,
- 60 percent or more of the association's gross income consists solely of amounts received as membership dues, fees, assessments from owners of residential units or residences or residential lots (exempt function income), and
- 90 percent or more of the association's expenditures for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property.

If qualified, an association makes the election by timely filing a Form 1120-H, *U.S. Income Tax Return for Homeowners' Associations*, according to the instructions for that return

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Homeowners' and Tenants' Associations, Continued

Summary of Homeowners' Associations

A homeowners' association:

- Must meet a community standard.
- Must not provide exterior maintenance for the private residences of members.
- Must permit the general public to have access to any common areas it maintains.
- May seek tax relief under IRC 528 if it does not qualify under IRC 501(c)(4).
- Must file Form 1120-H to elect the tax relief provisions of IRC 528.

A Note on Tenants' Associations

An organization formed to promote the legal rights of tenants in a community by publishing a newsletter, testifying before administrative and legislative bodies and occasionally initiating litigation qualifies under IRC 501(c)(4). Rev. Rul. 80-206, 1980-2 C.B. 185.

However, an organization made up of tenants in an apartment complex which represented those tenants in negotiations with apartment management would not qualify. Rev. Rul. 73-306, 1973-2 C.B. 179.

Veterans' Organizations

Introduction

An organization composed of veterans of the United States Armed Forces may, if it meets the applicable requirements, qualify under either IRC 501(c)(4) or IRC 501(c)(19). An organization that does not qualify under IRC 501(c)(19) is not precluded from qualifying under IRC 501(c)(4).

If the activities of a veterans' post primarily serve the interests of its members or constitute the operation of a business, the organization cannot qualify under IRC 501(c)(4). Rev. Rul. 68-46, 1968-1 C.B. 260.

On the other hand, an organization that cannot meet the membership percentage tests of IRC 501(c)(19) but is primarily engaged in activities that promote social welfare, such as providing assistance to needy and disabled veterans and/or promoting patriotism, can qualify for IRC 501(c)(4) exemption.

Examples of activities conducted by veterans' organizations that promote social welfare are:

- Providing assistance to needy or disabled veterans;
- Sponsoring youth activities, such as Boy Scouts, Girl Scouts, and youth units of the post;
- Providing scholarships for students;
- Allowing other community organizations to use the post facility;
- Making contributions to IRC 501(c)(3) organizations.

Contributions

Contributions to veterans' organizations made up of at least 90 percent war veterans may be deductible to the donor under IRC 170(c)(3) and 2522(a)(4). In addition to the membership requirement, substantially all the other members must be widows or widowers of war veterans, veterans, or cadets.

Subsidiaries

A subsidiary of a veterans' organization that operates a social facility on behalf of the organization does not qualify under IRC 501(c)(4) but may qualify under IRC 501(c)(7). Rev. Rul. 66-150, 1966-1 C.B. 147.

Organizations Supported By Government

Description of Various Programs

Various federal and state programs have been developed over the years to relieve or improve social and economic conditions in communities throughout the country. These programs include housing for handicapped and low-income groups, area redevelopment for the relief of unemployment, and promotion of economic opportunity. For the most part, the programs promote social welfare.

Examples:

- The promotion of social welfare includes efforts to furnish housing for low-income groups where there is a need for such housing (Rev. Rul. 55-439, 1955-2 C.B. 257, and Garden Homes Company v. Commissioner, 64 F.2d 593 (7th Cir. 1932));

- To relieve unemployment by area redevelopment (Rev. Rul. 64-187, 1964-1 (Part 1) C.B. 187);

- To rehabilitate the elderly unemployed (Rev. Rul. 57-297, 1957-2 C.B. 307), and

- To make loans to business entities to induce them to locate in an economically depressed area in order to alleviate unemployment (Rev. Rul. 67-294, 1967-2 C.B. 193).

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Organizations Supported By Government, Continued

Exempt Status Does Not Automatically Follow

An organization will not necessarily qualify for exemption from tax merely because it is eligible for assistance from, or participates in, a federal or state program. In some instances, these programs provide assistance to organizations that are not described in any of the exempting provisions of the Code.

Examples:

- § 202 of the Housing Act of 1959 (12 U.S.C. § 1701q) authorizes the Housing and Home Financing Agency to make loans to consumer cooperatives. A cooperative housing corporation is not exempt as a social welfare organization since it is an economic and private undertaking for the benefit of its members. Commissioner v. Lake Forest. Inc., 305 F.2d 814 (4th Cir. 1962).

- New York State Housing Law of 1926. (N.Y. Sess. Laws 1926, ch. 823.) The purpose of the law was to relieve unsatisfactory housing conditions of low-income persons. To accomplish this purpose, the law authorized the formation of limited dividend stock corporations that would construct and operate rental dwellings under the supervision of a state agency.

Corporations organized under such New York State Housing Law are not exempt from federal income tax because they do not meet the "not-organized-for-profit" requirement of IRC 501(c)(4). They are organized in part for profit because they may pay dividends, even though limited in amount, to their stockholders. Amalgamated Housing Corporation v. Commissioner, 37 BTA 817 (1938), aff'd per curiam, 108 F.2d 1010 (2nd Cir. 1940).

"Social Welfare" and "Charity"

General Comparison

Reg. 1.501(c)(3)-l (d)(2) includes the promotion of social welfare as a charitable purpose within the meaning of IRC 501(c)(3). Therefore, there is considerable overlap between IRC 501(c)(4) and IRC 501(c)(3). Many organizations could qualify for exempt status under either Code section.

- Organizations exempt under IRC 501(c)(4) are generally allowed greater latitude than that allowed to organizations exempt under IRC 501(c)(3).
- There is no organizational test and there is no deadline on applying for exemption under IRC(c)(4).
- Organizations exempt under IRC 501(c)(4) may engage in germane lobbying activities without the restrictions imposed on IRC 501(c)(3) organizations.
- Since the test for exemption under IRC 501(c)(4) looks to the organization's primary activities, an organization exempt under IRC 501(c)(4) may engage in substantial non-exempt activities.
    - In contrast, under the reasoning of Better Business Bureau v. United States, 326 U.S. 279 (1945), the presence of a single noncharitable purpose, if substantial in nature, will disqualify an organization from IRC 501(c)(3) status.
- Organizations that are not exempt under IRC 501(c)(3) for a period of time because of failure to file for recognition of exemption timely under IRC 508(a) may qualify as exempt under IRC 501(c)(4) for that period. Rev. Rul. 80-108, 1980-1 C.B. 119, and Rev. Rul. 81-177, 1981-2 C.B. 132.
- However, an organization that loses its IRC 501(c)(3) status because of excessive lobbying or political campaign intervention may not be treated as an organization described in IRC 501(c)(4). IRC 504(a).
    - IRC 504(a) does not apply to churches and other organizations that are precluded from making the IRC 501(h)/4911 lobbying election. IRC 504(b).
- An organization is not operated for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations operated for profit. Therefore, an organization operating a bingo game could qualify for exemption under IRC 501(c)(3) if its primary purpose is to raise funds for charity but would not qualify under IRC 501(c)(4) because its primary activity is the operation of a business.

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"Social Welfare" and "Charity", Continued

General Comparison, continued	Contributions to organizations exempt under IRC 501(c)(4) are generally not deductible by donors. Exceptions to this rule are found in the case of fire and rescue squads (Rev. Rul. 74-361, 1974-2 C.B. 159) and certain war veterans' organizations, as discussed in the **Veterans' Organizations** section, above.

Social and Recreational Activities

Introduction

Reg. 1.501(c)(4)-l(a)(2)(ii) provides that social and recreational activities are not social welfare activities. However, if a substantial part of an organization's activities consists of social functions for the benefit, pleasure, and recreation of its members, it may qualify for exemption under IRC 501(c)(4) if it is primarily engaged in social welfare activities.

- For example, a garden club that instructs the public on horticultural subjects, holds public flower shows, makes awards for horticultural achievement and also conducts substantial social activities qualifies as a social welfare organization under IRC 501(c)(4) as it is operated primarily to bring about civic and social improvements. Rev. Rul. 66-179, 1966-1 C.B. 139.

Business Activities

Business Activities and the Primary Activities Test

Social welfare organizations are not precluded from engaging in business activities as a means of financing their social welfare programs. However, the regulations provide that an organization is not operated exclusively for the promotion of social welfare if its primary activity is carrying on a business with the general public.

- An organization is not precluded from exemption merely because it charges a nominal admission fee. See Rev. Rul. 67-109, 1967-1 C.B. 136, which involved a community recreation facility.

- A determination whether business activity is the "primary activity" of an organization claiming exemption under IRC 501(c)(4) depends on all the facts and circumstances of the particular case. The following court cases and revenue rulings illustrate the application of the primary activity test in specific situations.

Precedents Illustrating Business Activities and the Primary Activities Test

- A nonprofit corporation that operates a semiprofessional baseball club as its principal activity is not entitled to exemption under IRC 501(c)(4). Rev. Rul. 55-516, 1955-2 C.B. 260.

  - On the other hand, Rev. Rul. 69-384, 1969-2 C.B. 122, concludes that an amateur baseball team qualifies for IRC 501(c)(4) tax-exempt status.

- In Club Gaona. Inc. v. United States, 167 F. Supp. 741 (S.D. Ca. 1958), the organization's principal activity was the promotion of regular public dances, which were its main source of income. The club used these profits for speculative real estate dealings. The court held that the organization was not primarily promoting social welfare as its profits were devoted to the accumulation of funds that were not used for ascertainable civic projects.

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Business Activities, Continued

Precedents Illustrating Business Activities and the Primary Activities Test, continued

- A foundation reselling donated goods for a profit was held taxable even though its net profits were payable to an IRC 501(c)(4) veterans' organization. Veterans Foundation v. United States, 281 F.2d 912 (10th Cir. 1960). In that case, the primary purpose of the organization, as evidenced by its activities, was to engage in business

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  - On the other hand, Rev. Rul. 68-455, 1968-2 C.B. 215, concludes that a war veterans' association qualifies for exempt status under IRC 501(c)(4) even though it operated a resort concession because it was primarily engaged in the promotion of social welfare.

- A nonprofit organization, created exclusively for the promotion of social welfare, that conducts weekly drawings among members of the general public as its principal activity and uses the profits therefrom primarily for the payment of its general expenses is not entitled to exemption as an organization described in IRC 501(c)(4). Rev. Rul. 61-158, 1961-2 C.B. 115.

- In People's Educational Camp Society, Inc. v. Commissioner, 331 F.2d 923 (2nd Cir. 1964), a nonprofit corporation's social welfare activities were supported by its operation of a commercial resort. The court rejected the argument that the resort activities were social welfare and characterized them as business activities. It noted that a large portion of the revenue was being reinvested in the commercial operation. As the business activities were of such magnitude in comparison with the social welfare activities that the organization could not be said to be exclusively (that is, "primarily") engaged in the promotion of social welfare, the court held the organization did not qualify for IRC 501(c)(4) exempt status.

- When a national sorority is created and controlled by a business corporation engaged in furnishing services and supplies to the sorority and its member chapters, neither the sorority nor its chapters can qualify for exemption from federal income tax under IRC 501(c)(7) or IRC 501(c)(4) because they serve the financial interests of the business corporation. Under the circumstances, the sorority activity assumed the coloration of a business activity. Rev. Rul. 66-360, 1966-2 C.B. 228

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Business Activities, Continued

Precedents Illustrating Business Activities and the Primary Activities Test, continued

- Rev. Rul. 68-45, 1968-1 C.B. 259, concludes that a war veterans' association that is primarily engaged in social welfare activities may qualify for IRC 501(c)(4) tax-exempt status notwithstanding the fact proceeds from bingo games constituted its principal source of income. In reaching this conclusion, Rev. Rul 68-45 notes:

  > The fact that the organization's principal source of income is from the conduct of bingo games with the general public does not mean that the games are also its primary activity. All the facts and circumstances are taken into account in determining an organization's primary activity and the facts in this case clearly establish that the organization's social welfare activities are its primary activities.

  - Compare Rev. Rul. 68-46, 1968-1 C.B. 260, which concludes that a war veterans' association does not qualify for exemption under IRC 501(c)(4) because it was primarily engaged in renting a commercial building and operating a public banquet and meeting hall.

- A community welfare corporation that purchases and sells unimproved land and engages in other business activities, the profits from which are distributed to members, is not exempt under IRC 501(c)(4). Rev. Rul. 69-385, 1969-2 C.B. 123.

- An organization formed to manage low and moderate income housing projects for a fee does not qualify for exemption under IRC 501 (c)(4). Management services were the primary activity and were carried on in a manner similar to organizations operated for profit. Rev. Rul. 70-535, 1970-2 C.B. 117.

- A nonprofit organization, whose membership is limited to local residents, and whose sole activity is sponsoring an annual professional golf tournament for which it leases a golf course and charges admission, is not operated primarily for the promotion of social welfare and does not qualify for exemption. Rev. Rul. 74-298, 1974-1 C.B. 133

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Business Activities, Continued

Precedents Illustrating Business Activities and the Primary Activities Test, continued

- A nonprofit organization provides security services for residents and property owners of a particular community, who agree to pay at a specified hourly rate to defray the cost of the services. By providing security services in return for compensation the organization is carrying on a business with the general public in a manner similar to organizations operated for profit and does not qualify for exemption under IRC 501(c)(4). Rev. Rul. 77-273, 1977-2 C.B. 194.

Police and Firefighters' Relief Organizations

Introduction

Police and firefighters' relief organizations offer various types of benefits to their police and firefighter members. As illustrated below, absent the circumstances described in Rev. Rul. 87-126, 1987-2 C.B. 150, these organizations do not qualify under IRC 501(c)(4).

- An organization of police officers that primarily paid lump sum payments to members or death benefits to their beneficiaries does not qualify for exemption under IRC 501(c)(4). Rev. Rul. 81-58, 1981-1 C.B. 331.

- In Rev. Rul. 87-126, an organization composed of firemen that provide members with retirement benefits that are funded by government sources and that are the exclusive retirement benefit provided to these individuals is determined to qualify for exemption. This organization provides benefits of a type and in an amount that the local government decided was sufficiently in the public interest to be recognized as a legitimate function of government.

Health Care Organizations

Fee-for-Service Organizations

Organizations that provide commercial-type health insurance to the public such as Blue Cross/Blue Shield organizations do not qualify under IRC 501(c)(4). IRC 501(m)(1) denies exemption under IRC 501(c)(4) to organizations that provide commercial-type insurance as a substantial part of their activities.

HMOs

With respect to health maintenance organizations (HMOs), which provide health care to the public on a subscription basis, IRC 501(m) does not define "commercial-type insurance" in the HMO context, although IRC 501(m)(3)(B) provides it is not "incidental health insurance provided by a health maintenance organization of a kind customarily provided by such organizations." We do not interpret this exception as evidence of congressional intent to generally except HMOs from the proscription of IRC 501(m)(1).

IRM 7.8.1, Exempt Organizations Examinations Guidelines Handbook, Chapter 27, Health Maintenance Organizations, provides compensation guidelines to determine if an HMO provides "commercial-type insurance" as a substantial part of its activities. However, each case must be decided on all the facts and circumstances.

IPAs

An individual practice association (IPA) that negotiates with health care organizations on behalf of its member doctors does not qualify under IRC 501(c)(4) since the organization primarily serves the private interests of its members. Rev. Rul. 86-98, 1986-2 C.B. 74.

Local Associations of Employees

Introduction

IRC 501(c)(4) exempts certain associations of employees. To qualify, the association must be of a local character; its membership must be limited to employees of designated person or persons in a particular locality; and its net earnings must be devoted exclusively to charitable, educational, or recreational purposes.

- "Local" is used in IRC 501(c)(4) in the same sense as in the case of benevolent life insurance associations exempt under IRC 501(c)(12). Reg. 1.501(c)(4)-l(b). In that context, "local" is a question of fact, but essentially to be "local" means confined to a particular community, place, or district, irrespective, however, of political subdivisions.
    - "Local" has to with the location of the members' place of employment. It does not relate to where the members live.
    - Therefore, an employees' association that operates in several widely separated communities is not a local association of employees within the meaning of IRC 501(c)(4).
- Organizations devoted to activities such as providing a bus for the convenience of members, paying retirement and death benefits and providing purchase discounts to members do not qualify since such benefits do not serve charitable, educational or recreational purposes. *See* Rev. Rul. 55-311, 1955-1 C.B. 72; Rev. Rul. 66-59, 1966-1 C.B. 142; and Rev. Rul. 79-128, 1979-1 C.B. 197.
- A local association of employees is not precluded from exemption merely because its activities must be approved by the employer of its members. Rev. Rul. 70-202, 1970-1 C.B. 130.
- For purposes of IRC 501(c)(4), the term "employees" includes retired employees who were members of the employees' association at the time of retirement. Rev. Rul. 74-281, 1974-1 C.B. 133.

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Local Associations of Employees, Continued

Introduction, continued

- An employees' association that operates a gas station that sells only to members and to the employer company and uses the proceeds exclusively for recreational purposes qualifies under IRC 501(c)(4). Neither the operation of the station or the sales to the employer are disqualifying since the proceeds are used for recreational purposes, and the income from the employer is considered as a form of employer support. Rev. Rul. 66-180, 1966-1 C.B. 144.

    - Rev. Rul. 79-128, 1979-1 C.B. 197 concludes that an organization whose membership is limited to the employees of an employer in a particular municipality and whose primary purpose is to obtain discount prices on goods, services and activities for members is not a local association of employees for purposes of IRC 501(c)(4). Reviewing the legislative history, Rev. Rul. 79-128 notes that organizations providing a cooperative buying services were not contemplated by Congress as being included within the term "local association of employees."

IRC 4958 and Inurement

IRC 4958

P.L. 104-168, 110 Stat. 1452 (1996) (Taxpayer Bill of Rights 2) § 1311(a) has potentially great impact on IRC 501(c)(4) organizations.

First, it created a new statute, IRC 4958, which imposes excise taxes on excess benefit transactions between a disqualified person and any organization described in IRC 501(c)(3) (except a private foundation) or IRC 501(c)(4). The taxes are to be paid by the disqualified person.

Reg. 53.4958-2T(a)(3) provides that an organization is described in IRC 501(c)(4) if:

- It has applied for and received recognition from the Service as an organization described in IRC 501(c)(4); or
- It has filed an application for recognition of exemption under IRC 501(c)(4), filed an annual information return as an IRC 501(c)(4) organization, or has otherwise held itself out as an organization described in IRC 501(c)(4).

IRC 4958 is discussed extensively in the 2002 CPE, Topic H, "An Introduction to I.R.C. 4958 (Intermediate Sanctions)" and the 2003 CPE, "Intermediate Sanctions (IRC 4958) Update."

Inurement

Second, it amended IRC 501(c)(4) to expressly prohibit inurement of the net earnings of an entity otherwise described in that subparagraph to the benefit of any private shareholder or individual.

Detailed Subject Directory

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Detailed Subject Directory, Continued