

Exemption; educational organization; wilderness camping program for adolescents. A nonprofit corporation that operates a wilderness camping program to rehabilitate and provide counseling to adolescents who have emotional and behavioral problems is a nonprofit educational organization for purposes of sections 4041(g)(4), 4221(a)(5) and 4253(j) of the Code. Rev. Rul. 80-21 revoked.

#### ISSUE

Does the organization described below qualify for exemption from federal excise tax as a nonprofit educational organization?

#### FACTS

The Internal Revenue Service has reconsidered Rev. Rul. 80-21, 1980-1 C.B. 233. The ruling concerns a non-profit corporation, formed for educational and charitable purposes, that operates a wilderness camping program to rehabilitate adolescents having various emotional and behavioral problems. Such problems include poor self-image, excessive aggression, drug experimentation, inability to relate to peers or adults, and the inability to face or solve problems in general.

The adolescents are referred to the organization by the local public school district, social service agencies, juvenile authorities, and various religious organizations.

The organization's program, operated 10 months a year, provides supervised 26-day hiking and camping trips through wilderness areas. Each trip is attended by 10 or more adolescents, and is conducted by three of the organization's counselors. The counselors are selected for their maturity and ability to relate to adolescents, previous work experience, and their academic credentials in the social sciences and mental health fields. Some counselors are certified teachers with degrees in education, psychology, or sociology.

The organization's program is designed to develop self-confidence and positive attitudes through group living in a survival atmosphere. It consists of daily demonstrations and practical exercises in coping, adjustment, and problem solving skills or capabilities necessary for survival in a wilderness setting. In addition, the adolescents participate in informal group counseling sessions and are instructed in the necessary hiking and camping skills for wilderness terrain.

The organization is exempt from income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

Rev. Rul. 80-21 holds that the organization is not a

nonprofit educational organization and thus does not qualify for exemption from excise tax.

#### LAW AND ANALYSIS

Section 4041(g)(4) of the Code exempts sales for the exclusive use of a nonprofit educational organization from the taxes on diesel and special fuels imposed by section 4041. Comparable exemptions from the manufacturers excise taxes and the tax on communications are provided by sections 4221(a)(5) and 4253(j), respectively.

For purposes of these exemptions, the term "nonprofit educational organization" means an educational organization described in section 170(b)(1)(A)(ii) of the Code which is exempt from federal income tax under section 501(a). Section 170(b)(1)(A)(ii) describes an educational organization as one which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students at the place where its educational activities are regularly carried on. Section 1.170A-9(b)(1) of the Income Tax Regulations provides that such nonprofit educational organization must have as its primary function the presentation of formal instruction.

The fact that an organization may have been granted exemption from federal income tax as an organization described in section 501(c)(3) of the Code does not, of itself, determine the applicability of the exemptions from the aforementioned excise taxes. In order for these exemptions to apply, the organization must meet the prescribed requirements of section 170(b)(1)(A)(ii) and the regulations as a "nonprofit educational organization."

Rev. Rul. 73-434, 1973-2 C.B. 71, describes an organization exempt from income tax under section 501(c)(3) of the Code that has full-time instructors who regularly conduct a 26-day survival course, mostly out-of-doors, to teach young people how to survive in a natural environment. The ruling holds that the organization is a nonprofit educational organization within the meaning of section 170(b)(1)(A)(ii).

In the present case, the organization is engaged in transferring knowledge to emotionally disturbed adolescents through the techniques of group counseling and demonstrations in coping, adjustments, and problem solving. The organization has an organized plan of instruction and utilizes qualified instructors to achieve its educational goal.

Thus, the Service now concludes that the organization is a nonprofit educational organization as that term is used in section 170(b)(1)(A)(ii) of the Code.

#### HOLDING

Because the organization described above is a nonprofit

educational organization, it qualifies for exemption from federal excise taxes under the provisions of sections 4041(g)(4), 4221(a)(5) and 4253(j) of the Code.

EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 80-21 is revoked.