

Rev. Rul. 71-529, 1971-2 C.B. 234, distinguished Rev. Rul. 72-369

A nonprofit organization that provides assistance in the management of participating colleges' and universities' endowment or investment funds for a charge substantially below cost qualifies for exemption under section 501(c)(3) of the Code; Revenue Ruling 69-528 distinguished.

The Internal Revenue Service has been asked whether the nonprofit organization described below qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The organization's governing documents provide that it was formed exclusively for charitable purposes, specifically, to aid organizations exempt from Federal income tax under section 501(c)(3) of the Code by assisting them to manage more effectively their endowment or investment funds, including the making of arrangements for more effective handling of their funds, and by obtaining contributions to cover all or part of the costs of the management of such funds or to provide supplemental income or capital to be used exclusively for the charitable, educational, or scientific purposes of such organizations.

The organization receives capital from the participating exempt organizations, which capital is then placed in one or more common funds in the custody of various banks. These common funds are controlled and managed by the organization. The funds are invested upon the advice of independent investment counsel retained by the organization.

Membership in the organization is restricted to colleges and universities exempt under section 501(c)(3) of the Code. Its board of directors is composed of representatives of the member organizations. Each member has the right to an accounting of its pro rata share of the investment funds and may withdraw from participation upon thirty days notice. The organization will not make its services available to anyone other than the exempt organizations controlling it.

Most of the operating expenses of the organization, including the costs of the services of the investment counselors and the custodian banks, are paid for by grants from independent charitable organizations. The member organizations pay only a nominal fee for the services performed. These fees represent less than fifteen percent of the total costs of operation.

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

By providing the service described above to its members, the organization is performing an essential function for charitable organizations. By performing this function for the organizations

for a charge that is substantially below cost, the organization is performing a charitable activity within the meaning of section 501(c)(3) of the Code.

Accordingly, it is held that the organization qualifies for exemption from Federal income tax under section 501(c)(3) of the Code.

The facts in this case are distinguishable from those in Revenue Ruling 69-528, C.B. 1969-2, 127. In Revenue Ruling 69-528 the facts indicated that the organization was primarily engaged in carrying on an investment management business for charitable organizations on a fee basis free from control of the participants.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Exemption Application in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal of business or principal office of the organization. See section 1.501(a)-1 of the Income Tax Regulations.