

A nonprofit organization created through collective bargaining agreements to train individuals desiring to acquire skills in an industry is exempt under 501(c)(3); it is also an educational organization described in section 170(b)(1)(A)(ii) and, therefore, is not a private foundation under section 509(a) of the Code.

The Internal Revenue Service has been asked to recognize the nonprofit organization described below as exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, as an educational organization within the meaning of section 170(b)(1)(A)(ii), and as other than a private foundation as defined in section 509(a) of the Code.

The organization was created as a result of collective bargaining agreements in an industry. The purpose of the organization is to train individuals working or desiring to work in that industry. Trustees are selected by representatives of labor and management. Under the terms of the agreements participating employers make a contribution to the organization measured by the number of man-hours worked by their respective employees. This is the sole source of funds for the organization.

The organization's only activity is the conduct of a training school at a facility maintained exclusively for this purpose. The school has a faculty consisting of a director and a regular staff of instructors presenting courses in the various crafts and skills required in the industry. All the courses are related to training the individual to work in the industry. The duration of the term of instruction for each class is six weeks. A regularly enrolled student body attends the school five full days a week. Students are selected by the trustees from individuals applying to the organization for enrollment in its training program to acquire skills in the industry. Expenditures are for the operation of the school.

There are no restrictions against admissions based on race and the organization has a racially nondiscriminatory policy as to students within the meaning of Rev. Rul. 71-447, C.B. 1971-2, 230.

Section 501(c)(3) of the Code provides for the exemption of organizations organized and operated exclusively for charitable or educational purposes.

Section 1.501(c)(3)-1(d) of the Income Tax Regulations includes within the definition of the term 'charitable,' the advancement of education. It also includes within the definition of the term 'education,' the training of the individual for the purpose of improving or developing his capabilities.

Section 509(a)(1) of the Code provides that the term private foundation means a domestic or foreign organization described in

section 501(c)(3) other than an organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)).

Section 170(b)(1)(A)(ii) of the Code 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 in attendance at the place where its educational activities are regularly carried on.

By conducting a training school for individuals desiring to acquire skills in an industry, the organization is training individuals for the purpose of improving or developing their capabilities. Accordingly, it is held that the organization is exempt from Federal income tax under section 501(c)(3) of the Code. See Revenue Ruling 67-72, C.B. 1967-1, 125, which holds that an organization created as a result of collective bargaining agreements in an industry, supported by contributions from both labor and management, and which conducts an apprentice training program is exempt from Federal income tax under section 501(c)(3) of the Code.

It is further held that the organization is an educational organization within the meaning of section 170(b)(1)(A)(ii) of the Code even though the term of instruction for each class lasts only for a period of six weeks, because (1) its only function is the presentation of formal instruction, (2) its interrelated courses are given in a regular and continuous manner, thereby constituting a regular curriculum, (3) it normally maintains a regular faculty, and (4) it has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on. See Rev. Rul. 69-492, C.B. 1969-2, 36. Compare Rev. Rul. 64-128, C.B. 1964-1 (Part 1), 191.

Since this organization is described in section 170(b)(1)(A)(ii), it is not a private foundation within the meaning of section 509(a) of the Code.

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 place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.