

A nonprofit organization formed to provide low-cost home health care for people of a community may qualify for exemption under section 501(c)(3) of the Code.

Advice has been requested whether an organization that otherwise qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 is operated for charitable purposes where its only activities are those described below.

The organization was formed to provide low cost home health care on a nonprofit basis to the people of the community. The organization's services are available to the general public. It provides professional nursing services and other therapeutic services to patients in their homes. Patients receive the organization's services based upon a course of treatment prescribed in writing by their physicians. The progress of the treatment is periodically reviewed by the physicians. Most of the organization's patients are elderly people who are confined because of their infirmities. The organization is a qualified 'home health agency' as defined in section 1861(o) of the Social Security Act, Public Law 89-97, 42 U.S.C. 1395x(o) and most of the organization's receipts come from the Social Security Administration in the form of payments made on behalf of patients receiving 'home health services' as defined in section 1861(m) of the Act, 42 U.S.C. 1395x(m). Its disbursements are made for salaries, medical equipment and supplies, and various administrative expenses. Any excess of income over expenses is used to cover the costs of those patients who cannot afford to pay and to expand the organization's services.

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

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations states that the term 'charitable' is used in section 501(c)(3) of the Code in its generally accepted legal sense.

In the general law of charity, the promotion of health is considered to be a charitable purpose. Restatement (Second), Trusts, sec. 368 and sec. 372; Bogart, Trusts and Trustees (2d ed. 1964), sec. 374; IV Scott on Trusts (3d ed. 167), sec. 368 and sec. 372. A nonprofit organization whose purpose and activity are providing hospital care for members of its community, is promoting health and may, therefore, qualify as being organized and operated in furtherance of a charitable purpose. Rev. Rul. 69-545, C.B. 1969-2, 117.

By providing home nursing and therapeutic care in the manner described above, the organization is serving many of the same health needs of the community that hospitals have traditionally

served and, therefore, is promoting health within the meaning of the general law of charity. Accordingly, it is held that the organization's activities are charitable and, since it otherwise qualifies for exemption, the organization is exempt under section 501(c)(3) 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.