

Internal Revenue Service, Treasury

§ 1.501(c)(10)-1

sections 61, 72, 101, 104 and 105 of the Code and regulations thereunder.

(b) *Availability of statutory exclusions from gross income.* The availability of any statutory exclusion from gross income with respect to contributions to, or the payment of benefits from, an organization described in section 501(c)(9) is determined by the statutory provision conferring the exclusion, and the regulations and rulings thereunder, not by whether an individual is eligible for membership in the organization or by the permissibility of the benefit paid. Thus, for example, if a benefit is paid by an employer-funded organization described in section 501(c)(9) to a member who is not an *employee*, a statutory exclusion from gross income that is available only for *employees* would be unavailable in the case of a benefit paid to such individual. Similarly, the fact that, for example, under some circumstances educational benefits constitute *other benefits* does not of itself mean that such benefits are eligible for the exclusion of either section 117 or section 127 of the Code.

[T.D. 7750, 46 FR 1725, Jan. 7, 1981]

§ 1.501(c)(9)-7 Voluntary employees' beneficiary associations; section 3(4) of ERISA.

The term *voluntary employees' beneficiary association* in section 501(c)(9) of the Internal Revenue Code is not necessarily coextensive with the term *employees' beneficiary association* as used in section 3(4) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1002(4), and the requirements which an organization must meet to be an *employees' beneficiary association* within the meaning of section 3(4) of ERISA are not necessarily identical to the requirements that an organization must meet in order to be a *voluntary employees' beneficiary association* within the meaning of section 501(c)(9) of the Code.

[T.D. 7750, 46 FR 1725, Jan. 7, 1981]

§ 1.501(c)(9)-8 Voluntary employees' beneficiary associations; effective date.

(a) *General rule.* Except as otherwise provided in this section, the provisions of §§ 1.501(c)(9)-1 through 1.501(c)(9)-7 shall apply with respect to taxable

years beginning after December 31, 1954.

(b) *Pre-1970 taxable years.* For taxable years beginning before January 1, 1970, section 501(c)(9)(B) (relating to the requirement that 85 percent or more of the association's income consist of amounts collected from members and contributed by employers), as in effect for such years, shall apply.

(c) *Existing associations.* Except as otherwise provided in paragraph (d), the provisions of § 1.501(c)(9)-2(a)(1) and (c)(3) shall apply with respect to taxable years beginning after December 31, 1980.

(d) *Collectively-bargained plans.* In the case of a voluntary employees' beneficiary association which receives contributions from one or more employers pursuant to one or more collective bargaining agreements in effect on December 31, 1980, the provisions of §§ 1.501(c)(9)-1 through 1.501(c)(9)-5 shall apply with respect to taxable years beginning after the date on which the agreement terminates (determined without regard to any extension thereof agreed to after December 31, 1980).

(e) *Election.* Notwithstanding paragraphs (c) and (d) of this section, an organization may choose to be subject to all or a portion of one or more of the provisions of these regulations for any taxable year beginning after December 31, 1954.

[T.D. 7750, 46 FR 1725, Jan. 7, 1981; 46 FR 11971, Feb. 12, 1981]

§ 1.501(c)(10)-1 Certain fraternal beneficiary societies.

(a) For taxable years beginning after December 31, 1969, an organization will qualify for exemption under section 501(c)(10) if it:

(1) Is a domestic fraternal beneficiary society order, or association, described in section 501(c)(8) and the regulations thereunder except that it does not provide for the payment of life, sick, accident, or other benefits to its members, and

(2) Devotes its net earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes.