

Rev. Rul. 70-186

Advice has been requested 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 was formed to preserve a lake as a public recreational facility and to improve the condition of the water in the lake to enhance its recreational features. It is financed by contributions from lake front property owners, from members of the community adjacent to the lake, and from municipalities bordering the lake.

The lake is a large body of water bordering on several municipalities. It is used extensively by the public for recreational purposes. Along its shores are community-owned public beaches, launching ramps, and other recreational facilities of a public nature.

The organization's principal activity is to treat the water, to remove algae, and to otherwise improve the condition of the water for recreational purposes.

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

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in section 501(c)(3) in its generally accepted legal sense and includes, among other things, the erection or maintenance of public buildings, monuments, or works, and the lessening of the burdens of Government.

By treating the water, removing algae, and otherwise improving the condition of the water, thereby insuring the continued use of the lake for public recreational purposes, the organization is performing a charitable activity. See Revenue Ruling 67-325, C.B. 1967-2, 113, which relates to an organization exempt under section 501(c)(3) of the Code providing recreational facilities to the residents of a township.

The benefits to be derived from the organization's activities flow principally to the general public through the maintenance and improvement of public recreational facilities. Any private benefits derived by the lake front property owners do not lessen the public benefits flowing from the organization's operations. In fact, it would be impossible for the organization to accomplish its purposes without providing benefits to the lake front property owners. See Revenue Ruling 66-358, C.B. 1966-2, 218, which relates to an organization exempt under section 501(c)(3) of the Code operating and maintaining a public park with incidental private benefits.

Accordingly, based on the facts presented it is held that this organization is exempt from Federal income tax under section 501(c)(3) of the Code.

This case is distinguishable from a situation where an organization uses its funds primarily to foster private interests and the benefit, if any, to the general public is only incidental. See *Benedict Ginsberg and Adele W. Ginsberg v. Commissioner*, 46 T.C. 47 (1966).

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.