Rev. Rul. 65-269, 1965-2 C.B. 159

Where an exempt hospital institutes a practice of charging fees to its doctor staff members to obtain funds to build a new hospital, and such fees are required as a prerequisite to the use of the hospital facilities, the exempt status of the hospital will not be jeopardized if the fee payments are reasonable in amount and the fee practice is nondiscriminatory.

Advice has been requested whether a hospital, which is exempt from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 jeopardizes its exempt status where it institutes a practice of requiring its doctor staff members to pay certain fees for the use of the hospital facilities.

The hospital was organized to acquire or erect, equip, conduct, operate, maintain and manage a charitable hospital and a training school for nurses.

In an effort to raise money for a new hospital the attending staff doctors were required to subscribe to the hospital building fund. Each doctor staff member was required to pay a stipulated amount into the building fund. Payment could be made in a lump sum or the staff member could pay five percent of his professional income a year until the amount stipulated was paid. The staff doctors were also obligated to pay to the hospital annual fees based on the use of the hospital facilities by their patients. Payment of all these fees is compulsory, and staff privileges are automatically suspended until paid. However, payment of such fees confers no proprietary rights in either the income or the assets of the hospital.

The information furnished discloses that the fees in question are paid for the doctors' use of facilities with respect to their hospital patients. There is no evidence that any physician was unable to meet the fee requirements, or that the fees exacted were unreasonable in amount or that the fee system in practice discriminated against any particular doctor or doctors seeking to use the hospital's facilities. Staff membership is available to any duly licensed doctor provided that his training and ability meet the qualification requirements of the hospital.

Section 501(c) of the Code describes certain organizations exempt from income tax under section 501(a) of the Code and reads, in part, as follows:

> (3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, * * * or educational purposes, * * * no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda,

or otherwise attempting, to influence legislation, * * *.

The only grounds upon which a hospital may be held exempt, or retain exemption under section 501(c)(3) of the Code are that it is organized and operated for public charitable, educational or scientific purposes enumerated therein rather than for private advantages; and that no part of its net earnings inures to the benefit of any private person, through either distribution of profits or in any other manner such as the use of its facilities to serve private interests.

Revenue Ruling 56-185, C.B. 1956-1, 202, sets forth certain tests to be met in determining whether a hospital qualifies for exemption from Federal income tax under section 501(a) of the Code. One of the requirements is that the hospital must not restrict the use of its facilities to a particular group of physicians and surgeons, to the exclusion of other qualified doctors. Such limitation on the use of hospital facilities is inconsistent with the public service concept inherent in section 501(c)(3) of the Code and the prohibition against the inurement of benefits to private shareholders or individuals.

The specific issue in the instant case is whether the fees required of the doctor staff members of the hospital have the effect of restricting the use of the hospital facilities to a particular group of physicians and surgeons; namely, those who are financially able and willing to pay the fees, thus violating the prohibition against the inurement of benefits to private shareholders or individuals.

The mere fact of charging such fees for the use of facilities does not result in a benefit to any doctor unless it is used as a means of excluding other doctors or giving the doctors making the payments some proprietary rights.

Based on the facts presented it is concluded that the payment of the required fees does not result in an inurement or benefit to any particular doctor, and the hospital, which otherwise meets the tests set forth in Revenue Ruling 56-185, continues to be exempt from Federal income tax as an organization described in section 501(c)(3) of the Code.