Rev. Rul. 68-535, 1968-2 C.B. 219

A social club that regularly sells liquor to its members for consumption off its premises is not entitled to exemption under section 501(c)(7) of the Code; Revenue Ruling 44 distinguished.

Advice has been requested whether the sale of liquor by a social club to its members for consumption off the club's premises will affect the club's exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code of 1954.

The club provides a variety of social and athletic activities for its members. It operates a clubhouse, which includes restaurant and bar facilities. In addition to selling liquor to members in the bar and restaurant, the club also regularly sells liquor by the bottle to members for consumption off the premises and accepts orders for delivery to members at their homes. Purchases may be made by members only. The club is licensed by the State to conduct this activity.

Section 501(c)(7) of the Code provides for the exemption from Federal income tax of clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes.

Section 1.501(c)(7)-1 of the Income Tax Regulations states that the exemption under section 501(c)(7) of the Code generally extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

Revenue Ruling 44, C.B. 1953-1, 109, holds that a social club, otherwise entitled to exemption from Federal income tax, should not be denied exemption because it derives its principal income from the operation of a bar or restaurant, provided, among other things, that only members and their guests are permitted to use the club's facilities. That Revenue Ruling notes that exemption has been granted to many clubs where substantial revenue was derived from the sale of merchandise and services to members.

The sale of liquor to members for consumption off the club's premises does not constitute the raising of income from members through the use of the club's facilities or in connection with club activities within the meaning of section 1.501(c)(7)-1 of the regulations. Neither is it income from the sale of merchandise to members through the operation of a restaurant or bar as provided in Revenue Ruling 44. Rather, the regular sale of liquor under the circumstances in the instant case is a service to the members that is neither related to nor in furtherance of a social club's exempt purposes. Since such activity is neither social nor recreational, the club is not

operated exclusively for pleasure, recreation, and other nonprofitable purposes within the meaning of section 501(c)(7) of the Code.

Accordingly, the social club described above is not entitled to exemption from Federal income tax under section 501(c)(7) of the Code.

Under the authority contained in section 7805(b) of the Code, this Revenue Ruling will not be applied with respect to sales of liquor prior to January 1, 1969.

Revenue Ruling 44 is hereby distinguished.