Rev. Rul. 70-536, 1970-2 C.B. 120

An amendment to a supplemental unemployment benefit trust permitting low-risk income-producing investments that serve social purposes, do not accrue for the benefit of related parties, and are not contrary to employees' interests, will not affect the exempt status of the trust.

A trust exempt from Federal income tax under section 501(c)(17) of the Internal Revenue Code of 1954 has presented a question to the Internal Revenue Service with respect to the effect a proposed amendment to its trust instrument will have on its exempt status.

The trust was established pursuant to a supplemental unemployment benefit plan negotiated as a result of a collective bargaining agreement between a labor union and a corporation. The proposed amendment will allow the trust to invest some of its funds in investments that would further projects providing community and social benefits. These investments would be of a low-risk nature so as not to jeopardize the corpus of the trust; however, the expected rate of return on these investments would be lower than what might otherwise be available in the current market for such investments. The amendment must be approved by the union and the corporation, and it prohibits any investments being made for the direct benefit of the corporation, the union, or the trustees.

Section 501(c)(17) of the Code provides for the exemption from Federal income tax of trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits.

Section 1.501(c)(17)-2(h) of the Income Tax Regulations provides that there are no specific limitations with respect to investments which may be made by trustees of trusts exempt under section 501(c)(17). Generally, investments will be permitted to the extent allowed by local law.

Although the proposed amendment expands the factors that may be considered by the trust in formulating its investment policy, the amendment does not affect the purpose of the trust, which is to provide supplemental unemployment compensation benefits. Low-risk investments that produce income and also serve a social purpose will not be considered a diversion of the corpus or income from the trust's purposes even though such investments yield a rate of return lower than that in the current market. Because the proposed amendment contains sufficient safeguards to insure that the trust's funds are not invested for the benefit of related parties or in a manner contrary to the interests of the employees, it is held that adoption of the proposed amendment will not affect the trust's exemption under section 501(c)(17) of the Code.