

1988

26 U.S.C. 501(c)(9) Tax Exempt Status of Voluntary Employees' Benefit Associations

Tony Paxton

Please take a moment to share how this work helps you [through this survey](#). Your feedback will be important as we plan further development of our repository.

Follow this and additional works at: <http://ideaexchange.uakron.edu/akrontaxjournal>



Part of the [Tax Law Commons](#)

Recommended Citation

Paxton, Tony (1988) "26 U.S.C. 501(c)(9) Tax Exempt Status of Voluntary Employees' Benefit Associations," *Akron Tax Journal*: Vol. 5 , Article 13.

Available at: <http://ideaexchange.uakron.edu/akrontaxjournal/vol5/iss1/13>

This Article is brought to you for free and open access by Akron Law Journals at IdeaExchange@UAkron, the institutional repository of The University of Akron in Akron, Ohio, USA. It has been accepted for inclusion in Akron Tax Journal by an authorized administrator of IdeaExchange@UAkron. For more information, please contact mjon@uakron.edu, uapress@uakron.edu.

26 U.S.C. § 501(c) (9) TAX EXEMPT STATUS OF VOLUNTARY EMPLOYEES' BENEFIT ASSOCIATIONS

In *Canton Police Benevolent Association v. United States*, 658 F. Supp. 411 (N.D. Ohio 1987), the court determined that "retirement benefits were not intended by Congress to have been included in the statutory exemption created in 26 U.S.C. § 501(c)(9)."¹

26 U.S.C. § 501(c)(9) provides tax exempt status to:

Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

This case arose when the Canton Police Benevolent Association (Association) was notified on April 3, 1984 that its tax exempt status approved on April 15, 1964 was being revoked based on changes in the tax law effective in 1981.² These changes, reflected in 26 U.S.C. § 501(c)(9), limited tax exempt status to "organizations defined as voluntary employees' beneficiary associations" or VEBA's.³ This action was brought to reinstate the Association's tax exempt status and refund the \$3,367.12 in taxes paid between 1981-1984.

In its original application for tax exempt status, the Association classified itself as a social welfare organization whose objective was "to promote and develop a friendly and fraternal spirit among the police officers; to extend moral and material aid at retirement or death; and to establish and maintain a death benefit fund."⁴ Under this stated purpose, the retirement benefit "is provided only to those members of the organization who have had twenty years of service with the department."⁵

From these facts the Association claimed that the "pension benefit would be an 'other benefit' within the meaning of the statute."⁶ The Association did not claim that "a retirement benefit would qualify as a life, sick, accident or other benefit."⁷ Even so, the court held that the Association's interpretation of 26 U.S.C. § 501(c)(9) was "in direct conflict with Section 1.501(c)(9)-3(d) of the Treasury Regulations, which defines the term other benefits to include only benefits that are similar to life, sick or accident benefits."⁸

¹*Canton Police Benevolent Assoc. v. United States* 658 F.Supp. 411,414 (N.D.Ohio 1987).

²*Id.* at 413

³*Id.*

⁴*Id.*

⁵*Id.*

⁶*Id.* See also 26 U.S.C. § 501(c)(9).

⁷*Id.*

⁸*Id.*

Using statutory interpretation the court held that the term "other benefits must be restricted to the types of benefits . . . which are life, sick or accident benefits." and therefore, "the court finds that retirement benefits were not intended by Congress to have been included in the statutory exemptions created in 26 U.S.C. § 501(c)(9)."⁹ Otherwise, "Congress would have expressly listed such benefits if the legislature had intended to include the payment of retirement benefits as a permissible activity of a voluntary employees beneficiary association."¹⁰ Thus, the revocation of tax exempt status was proper.

In conclusion, this case is still good law. Although the court never specifically addresses the attempted distinction alleged by the Association between a pension benefit and a retirement benefit (the latter which the Association recognized as not being an "other benefit," and the former being the basis of their claim to exempted status), the result seems to suggest that only those benefits which specifically classify as life, sick, or accident will entitle a voluntary employees beneficiary association to tax exempt status. Of course, even after overcoming this hurdle, they must still be careful to satisfy the requirements of 26 U.S.C. § 401(a) (Requirements For Qualification of a Plan).

TONY PAXTON

⁹*Id.* at 414.

¹⁰*Id.*