



Treasury Decisions
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DEPARTMENT OF THE TREASURY
Internal Revenue Service

26 CFR Part 1

48 FR 23815

Income Tax; Taxable Years Beginning After December 31, 1953; Income From Trade Shows

T.D. 7896

DATE: May 27, 1983

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the treatment of income from qualified trade shows sponsored by certain exempt organizations. Changes to the applicable tax law were made by the Tax Reform Act of 1976. These regulations provide necessary guidance to the public for compliance with that Act and would affect certain exempt organizations that sponsor trade shows. The regulation also conforms the regulations to changes in the tax law concerning the time for filing an exempt organization's income tax return. In addition, this document makes clerical changes in the regulations to reflect a recent amendment to the Statement of Procedural Rules.

DATES:

DATE: The amendments regarding qualified convention and trade show activities are effective for taxable years beginning after October 4, 1976. Changes concerning the time for filing income tax returns are effective for taxable years beginning after November 10, 1978.

ADDRESSES:

FOR FURTHER INFORMATION CONTACT: Janet Painter of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3544) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1980, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 513(d) of the Internal Revenue Code of 1954. These amendments were proposed to conform the regulations to section 1305 of the Tax Reform Act of 1976 (90 Stat. 1716) and section 6 of the Act of November 10,

1978 (Pub. L. 95-628, 92 Stat. 3630), and are issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805). A public hearing was requested and was held on April 22, 1981. After consideration of all comments regarding the proposed amendments, those amendments are adopted with modifications as set forth in this Treasury decision.

Discussion of Issues

1. Conflicting Example

It has been suggested that the conclusion of Example 3 of Treas. Reg. § 1.513-1(d)(4)(i), which was not discussed in the proposed regulations, might be misleading in light of results reached under the proposal. In that example, a trade association carries on a trade show where no selling is conducted. Income from the activity is not unrelated business taxable income. It was suggested that the example implies that the determination of unrelated business taxable income might be different if selling were allowed. Because the final regulations specifically provide that sales activities do not necessarily yield unrelated business income, and an unintended implication might have arisen from the facts presented in the example, a cross-reference to the proposed regulations has been added to Example 3 of Treas. Reg. § 1.513-1(d)(4)(i).

2. Qualified Activities Not Unrelated

Several public inquiries concerned the tax treatment of nonqualifying convention and trade show activities. The proposed regulations stated that activities which are not "qualified" activities, as defined in the regulations, are unrelated to the organization's exempt purpose. Criticism of that provision centered on the argument that nonqualified activities should be subject to the tests generally applicable to all activities of exempt organizations. The proposal did not establish a more stringent test for the tax treatment of these activities, but merely expanded the test otherwise applicable. The proposed language reaches the same result as would a general cross-reference to section 513 as any trade show activity which would be considered a related activity under the general test of section 513(a) would also be considered related under the final regulations specifically applicable to trade show activities. A cross-reference to the general test to determine whether a convention or trade show activity is unrelated would be redundant. A change to the text of the proposed regulations has been judged unnecessary.

3. Impact on Internal Revenue Code Section 501(c) (3) and (4) Organizations

Several commentators asked the Service to address the proposed regulations' impact on section 501(c) (3) and (4) organizations and on a series of rulings, issued in 1975, which include *Rev. Ruls. 75-516* through *75-520*, *1975-2 C.B. 220-227*. This series of rulings concerns the effect of sales activity on the taxability of rental income from conventions and trade shows, that is whether that income is taxable unrelated trade or business income.

Section 513(d)(3)(C) of the Internal Revenue Code provides a limited exception to the definition of the term "unrelated trade or business" for organizations described in sections 501(c)(5) and 501(c)(6) of the Code. The legislative history of this section indicates that it was intended to supersede the 1975 series of rulings. This regulation also addresses only those organizations described in sections 501(c)(5) and 501(c)(6). It is anticipated that the Service will issue revised rulings that will reflect positions consistent with the final regulations and will address the issues raised in *Rev. Rul. 67-219*, *1967-2 C.B. 210* and *Rev. Ruls. 75-516* through *75-520*, *1975-2 C.B. 220-227*.

Organizations described in other sections of the Code, such as sections 501(c)(3) and 501(c)(4), are governed by the general principles set forth in section 513(a) of the Code in determining whether any trade show activity is or is not related to the purposes for which such organizations was granted exemption.

4. Products and Services

The proposed regulations define a qualified convention or trade show as one which has as one of its purposes the

promotion of products and services of an industry. One commentator suggested that final regulations should refer to "products *or* services" rather than "products *and* services" so that a show at which products are exhibited to stimulate interest in the services of those who created the products would not find itself excluded from the definition of a "qualifying show."

The statute uses three combinations of the words "products" and "services": (1) "products *or* services" in the definition of "convention and trade show activity"; (2) "products *and* services" in the definition of qualified activities; and (3) "products" (only) in the definition of "qualifying organization". The final regulations will not maintain the technical distinctions among these terms because to do so would be inconsistent with the general thrust of the Code provision -- that commercial displays of members' products, services, or a combination of the two, are consistent with trade association activities.

The final regulations will not disqualify an activity which is intended to stimulate an interest in services rather than in products of the sponsoring organization, whether through demonstration of the services or exhibition of products which are related to those services. The final regulations have been altered so that the term "products and services" and the term "products" as used in the above definitions will be interpreted to mean "products or services".

5. Qualified Convention or Trade Show

It was suggested that a show at which the only displays are educational suppliers' exhibits and at which selling and order taking are prohibited, might not be a qualified show under the proposed regulation because no interest or demand for members' products or services would be stimulated. Income from rental of exhibition space to such suppliers might then be considered unrelated business taxable income. The Service previously indicated, in *Rev. Rul. 75-516, 1975-2 C.B. 220*, that in such a situation the income would not be unrelated business taxable income. The final regulations do not alter that result. The final regulations include educational activities among those carried on at a qualified show. This change assures that rental income from exhibition space at a show, such as the one at which the only displays are educational suppliers' exhibits and at which selling and order taking are prohibited, would still not constitute unrelated business taxable income.

6. Examples

It was suggested that an example be added to discuss organizations which display products in order to increase interest in members' services. As indicated above, the regulation, as proposed, would include this type of show as a qualified trade show. It was therefore judged unnecessary to include the suggested example.

Another commentator recommended an example addressing the treatment of two or more organizations which jointly sponsor a show. Concern was expressed as to how to allocate the tax treatment of a show, one sponsor of which is a "qualifying organization" and one of which is not. Such an allocation would be made using the same partnership principles already articulated in the Code regarding allocation of income among partners. Therefore, such an allocation regarding trade show activities would result in an exempt trade association's otherwise qualifying activities remaining qualified while nonqualifying exempt organizations' activities would still be considered unrelated trade or business. The final regulation is unchanged from the proposal.

Several commentators objected to a proposed example's conclusion that a supplier show is not a qualified show, as defined in the regulations. In light of the language of the statute, which does not include supplier shows, and of the general legislative intent, it has been determined that only supplier shows which fit within the language of the statute should be qualified. Therefore, the final regulations retain this example concerning "nonqualified" supplier exhibits.

It was also suggested that the same supplier show example did not specify the purpose of the exhibits and that this factor could be significant. In *Rev. Rul. 75-516, 1975-2 C.B. 220*, an organization that sponsored a supplier show at which selling and soliciting were prohibited and that had as its only activity the display of supplier exhibits which were educational in nature, was not taxed on its income from rental of exhibit space. The final regulations contain additional

facts to distinguish the show in this example, which functions as a sales vehicle for suppliers (income from which would be unrelated business taxable income to the sponsoring organization), from the purely educational show of *Rev. Rul. 75-516* (income from which would not be taxable to the sponsoring organization).

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of that Order dated April 28, 1982.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply and no Regulatory Flexibility analysis is required for this rule.

Drafting Information

The principal author of this regulation is Janet Painter of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR 1.401-1 -- 1.425-1

Income taxes, Employee benefit plans.

26 CFR 1.501(a)-1 -- 1.528-10

Income taxes, Exempt organizations, Unrelated trade or business.

Adoption of amendments to the regulations.

PART 1 -- [AMENDED]

Accordingly, 26 CFR Part 1 is amended as follows:

§ 1.401 (b)-1 [Amended]

Paragraph 1. Section 1.401(b)-1(d)(3) is amended by striking out " § 601.201(o)" and inserting in lieu thereof " § 601.201(s)".

Par. 2. Section 1.401(b)-1(e) is amended by striking out " § 601.201(o)(3)(xii)" from the fifth sentence and inserting in lieu thereof " § 601.201(s)(3)(xii)".

§ 1.503(c)-1 [Amended]

Par. 3. Section 1.503(c)-1(a) is amended by striking out "paragraph (o) of § 601.201" from the fourth sentence and inserting in lieu thereof "paragraph (s) of § 601.201".

Par. 4. Section 1.513-1(d)(4)(i) is amended by striking out Example (3) and inserting in lieu thereof the following:

§ 1.513-1 Definition of unrelated trade or business.

* * * * *

(d) *Substantially related.* * * *

(4) *Application of principles -- (i)* * * *

Example (3). O is an industry trade association qualified for exemption under section 501(c)(6). It presents a trade show in which members of its industry join in an exhibition of industry products. O derives income from charges made to exhibitors for exhibit space and admission fees charged patrons or viewers of the show. The show is not a sales facility for individual exhibitors; its purpose is the promotion and stimulation of interest in, and demand for, the industry's products in general, and it is conducted in a manner reasonably calculated to achieve that purpose. The stimulation of demand for the industry's products in general is one of the purposes for which exemption is granted O. Consequently, the activities productive of O's gross income from the show -- that is, the promotion, organization and conduct of the exhibition -- contribute importantly to the achievement of an exempt purpose, and the income does not constitute gross income from unrelated trade or business. See also section 513(d) and regulations thereunder regarding sales activity.

* * * * *

Par. 5. The following new section is added immediately after § 1.513-2:

§ 1.513-3 Qualified convention and trade show activity.

(a) *Introduction -- (1) In general.* Section 513(d) and § 1.513-3(b) provide that convention and trade show activities carried on by a qualifying organization in connection with a qualified convention or trade show will not be treated as unrelated trade or business. Consequently, income from qualified convention and trade show activities, derived by a qualifying organization that sponsors the qualified convention or trade show, will not be subject to the tax imposed by section 511. Section 1.513-3(c) defines qualifying organizations and qualified conventions or trade shows. Section 1.513-3(d) concerns the treatment of income derived from certain activities, including rental of exhibition space at a qualified convention or trade show where sales activity is permitted, and the treatment of supplier exhibits at qualified conventions and trade shows.

(2) *Effective date.* This section is effective for taxable years beginning after October 4, 1976.

(b) *Qualified activities not unrelated.* A convention or trade show activity, as defined in section 513(d)(3)(A) and § 1.513-3(c)(4), will not be considered unrelated trade or business if it is conducted by a qualifying organization described in section 513(d)(3)(C) and § 1.513-3(c)(1), in conjunction with a qualified convention or trade show, as defined in section 513(d)(3)(B) and § 1.513-3(c)(2), sponsored by the qualifying organization. Such an activity is a qualified convention or trade show activity. A convention or trade show activity which is conducted by an organization described in section 501(c) (5) or (6), but which otherwise is not so qualified under this section, will be considered unrelated trade or business.

(c) *Definitions -- (1) Qualifying organization.* Under section 513(d)(3)(C), a qualifying organization is one which --

(i) Is described in either section 501(c) (5) or (6), and

(ii) Regularly conducts as one of its substantial exempt purposes a qualified convention or trade show.

(2) *Qualified convention or trade show.* For purposes of this section, the term "qualified convention or trade show" means a show that meets the following requirements:

(i) It is conducted by a qualifying organization described in section 513(d)(3)(C);

(ii) At least one purpose of the sponsoring organization in conducting the show is the education of its members, or the promotion and stimulation of interest in, and demand for, the products or services of the industry (or segment thereof) of the members of the qualifying organization; and

(iii) The show is designed to achieve that purpose through the character of a significant portion of the exhibits or the character of conferences and seminars held at a convention or meeting.

(3) *Show*. For purposes of this section, the term "show" includes an international, national, state, regional, or local convention, annual meeting or show.

(4) *Convention and trade show activity*. For purposes of this section, convention and trade show activity means any activity of a kind traditionally carried on at shows. It includes, but is not limited to --

(i) Activities designed to attract to the show members of the sponsoring organization, members of an industry in general, and members of the public, to view industry products or services and to stimulate interest in, and demand for such products or services;

(ii) Activities designed to educate persons in the industry about new products or services or about new rules and regulations affecting the industry; and

(iii) Incidental activities, such as furnishing refreshments, of a kind traditionally carried on at such shows.

(d) *Certain activities -- (1) Rental of exhibition space*. The rental of display space to exhibitors (including exhibitors who are suppliers) at a qualified trade show or at a qualified convention and trade show will not be considered unrelated trade or business even though the exhibitors who rent the space are permitted to sell or solicit orders.

(2) *Suppliers defined*. For purposes of subparagraph (1), a supplier's exhibit is one in which the exhibitor displays goods or services that are supplied to, rather than by, the members of the qualifying organization in the conduct of such members' own trades or businesses.

(e) *Example*. The provisions of this section may be illustrated by the following examples:

Example 1. X, an organization described in section 501(c)(6), was formed to promote the construction industry. Its membership is made up of manufacturers of heavy construction machinery many of whom own, rent, or lease one or more digital computers produced by various computer manufacturers. X is a qualifying organization under section 513(d)(3)(C) that regularly holds an annual meeting. At this meeting a national industry sales campaign and methods of consumer financing for heavy construction machinery are discussed. In addition, new construction machinery developed for use in the industry is on display with representatives of the various manufacturers present to promote their machinery. Both members and nonmembers attend this portion of the conference. In addition, manufacturers of computers are present to educate X's members. While this aspect of the conference is a supplier exhibit (as defined in paragraph (d) of this section), income earned from such activity by X will not constitute unrelated business taxable income to X because the activity is conducted as part of a qualified trade show described in § 1.513-3(c).

Example 2. Assume the same facts as in Example 1, but the only goods or services displayed are those of suppliers, the computer manufacturers. Selling and order taking are permitted. No member exhibits are maintained. Standing alone, this supplier exhibit (as defined in paragraph (d)(2) of this section) would constitute a supplier show and not a qualified convention or trade show. In this situation, however, the rental of exhibition space to suppliers is not unrelated trade or business. It is conducted by a qualifying organization in conjunction with a qualified convention or trade show. The show (the annual meeting) is a qualified convention or trade show because one of its purposes is the promotion and stimulation of interest in, and demand for, the products or services of the industry through the character of the annual meeting.

Example 3. Y is an organization described in section 501(c)(6). The organization conducts an annual show at which its members exhibit their products and services in order to promote public interest in the line of business. Potential customers are invited to the show, and sales and order taking are permitted. The organization secures the exhibition facility, undertakes the planning and direction of the show, and maintains exhibits designed to promote the line of business in general. The show is a qualified convention or trade show described in paragraph (c)(2) of this section. The provision of exhibition space to individual members is a qualified trade show activity, and is not unrelated trade or business.

Example 4. Z is an organization described in section 501(c)(6) that sponsors an annual show. As the sole activity at the show, suppliers to the members of Z exhibit their products and services for the purpose of stimulating the sale of their products. Selling and order taking are permitted. The show is a supplier show and does not meet the definition of a qualified convention show as it does not satisfy any of the three alternative bases for qualification. First, the show does not stimulate interest in the members' products through the character of product exhibits as the only products exhibited are those of suppliers rather than members. Second, the show does not stimulate interest in members' products through conferences or seminars as no such conferences are held at the show. Third, the show does not meet the definition of a qualified show on the basis of educational activities as the exhibition of suppliers' products is designed primarily to stimulate interest in, and sale of, suppliers' products. Thus, the organization's provision of exhibition space is not a qualified convention or trade show activity. Income derived from rentals of exhibition space to suppliers will be unrelated business taxable income under section 512.

Par. 6. Section 1.6072-2 is amended by revising paragraph (c) to read as follows:

§ 1.6072-2 Time for filing returns of corporations.

* * * * *

(c) *Exempt organizations.* For taxable years beginning after November 10, 1978, the income tax return required under section 6012 and § 1.6012-2(e) of an organization exempt from taxation under section 501(a) (other than an employee's trust under section 401(a)) shall be filed on or before the fifteenth day of the fifth month following the close of the organization's taxable year.

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68 Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: February 28, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83-14289 Filed 5-26-83; 8:45 am]

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