

Income derived by an exempt organization from operating a mailing service for other organizations is income from unrelated trade or business within the meaning of section 513 of the Code even though the mailing equipment is also used for exempt activities.

An organization exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 has asked whether the mailing service described below constitutes unrelated trade or business within the meaning of section 513 of the Code.

The organization's purpose and primary activity are the prevention of a specific disease, public health education with respect thereto, and the treatment of those afflicted with the disease. Most of its financial support is obtained from an annual fund raising campaign conducted principally through mail solicitation.

The organization owns certain automatic mailing equipment operated by a full-time staff. The organization uses this equipment about 25 percent of the time for its fund raising campaign. During the remainder of the time, it provides on a profit-marking basis a mailing service for other organizations (both profit and nonprofit).

Section 513 of the Code defines the term 'unrelated trade or business' as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance of such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that a trade or business is 'related' to exempt purposes only where the conduct of the business activities has causal relationship to the achievement of exempt purposes (other than through the production of income); and it is 'substantially related,' for the purposes of section 513, only if the causal relationship is a substantial one. Thus, for the conduct of trade or business to be substantially related to the purposes for which exemption is granted, the production of the goods or the performance of the services must contribute importantly to the accomplishment of those purposes.

Section 1.513-1(d)(4)(iii) of the regulations states that, in certain cases, an asset or facility necessary to the conduct of exempt functions may also be employed in a commercial endeavor. In such cases, the mere fact of the use of the asset or facility in exempt functions does not, by itself, make the income from the commercial endeavor gross income from related trade or business. The test, instead, is whether the activities productive of the

income in question contribute importantly to the accomplishment of exempt purposes.

The performance of mailing services or other organizations does not itself contribute importantly to the accomplishment of the exempt purposes of this organization. The mere fact of the use of the equipment in exempt functions does not make the income from the commercial endeavor gross income from related trade or business. Accordingly, the performance of the mailing services for other organizations constitutes unrelated trade or business within the meaning of section 513 of the Code.