

and the income which it derives from advertising constitutes gross income from unrelated trade or business.

(e) *Exceptions.* Section 513(a) specifically states that the term *unrelated trade or business* does not include:

(1) Any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation; or

(2) Any trade or business carried on by an organization described in section 501(c)(3) or by a governmental college or university described in section 511(a)(2)(B), primarily for the convenience of its members, students, patients, officers, or employees; or, any trade or business carried on by a local association of employees described in section 501(c)(4) organized before May 27, 1969, which consists of the selling by the organization of items of work-related clothes and equipment and items normally sold through vending machines, through food dispensing facilities, or by snack bars, for the convenience of its members at their usual places of employment; or

(3) Any trade or business which consists of selling merchandise, substantially all of which has been received by the organization as gifts or contributions

An example of the operation of the first of the exceptions mentioned above would be an exempt orphanage operating a retail store and selling to the general public, where substantially all the work in carrying on such business is performed for the organization by volunteers without compensation. An example of the first part of the second exception, relating to an organization described in section 501(c)(3) or a governmental college or university described in section 511(a)(2)(B), would be a laundry operated by a college for the purpose of laundering dormitory linens and the clothing of students. The latter part of the second exception, dealing with certain sales by local employee associations, will not apply to sales of these items at locations other than the usual place of employment of the employees; therefore sales at such other locations will continue to be treated as unrelated trade or business. The third exception applies to so-called *thrift*

*shops* operated by a tax-exempt organization where those desiring to benefit such organization contribute old clothes, books, furniture, et cetera, to be sold to the general public with the proceeds going to the exempt organization.

(f) *Special rule respecting publishing businesses prior to 1970.* For a special rule for taxable years beginning before January 1, 1970, with respect to publishing businesses carried on by an organization, see section 513(c) of the Code prior to its amendment by section 121(c) of the Tax Reform Act of 1969 (83 Stat. 542).

(g) *Effective date.* This section is applicable with respect to taxable years beginning after December 12, 1967. However, if a taxpayer wishes to rely on the rules stated in this section for taxable years beginning before December 13, 1967, it may do so.

[T.D. 6939, 32 FR 17657, Dec. 12, 1967; 32 FR 17890, Dec. 14, 1967; 32 FR 17938, Dec. 15, 1967; T.D. 7107, 36 FR 6421, Apr. 3, 1971; T.D. 7392, 40 FR 58642, Dec. 18, 1975; T.D. 7896, 48 FR 23817, May 27, 1983]

**§ 1.513-2 Definition of unrelated trade or business applicable to taxable years beginning before December 13, 1967.**

(a) *In general.* (1) As used in section 512(a), the term *unrelated business taxable income* includes only income from an unrelated trade or business regularly carried on, and the term *trade or business* has the same meaning as it has in section 162.

(2) The income of an exempt organization is subject to the tax on unrelated business income only if two conditions are present with respect to such income. The first condition is that the income must be from a trade or business which is regularly carried on by the organization. The second condition is that the trade or business must not be substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501, or in the

case of an organization described in section 511(a)(2)(B) (governmental colleges, etc.) to the exercise or performance of any purpose or function described in section 501(c)(3). Whether or not an organization is subject to the tax imposed by section 511 shall be determined by the application of these tests to the particular circumstances involved in each individual case. For certain exceptions from the term *unrelated trade or business*, see paragraph (b) of this section.

(3) A trade or business is regularly carried on when the activity is conducted with sufficient consistency to indicate a continuing purpose of the organization to derive some of its income from such activity. An activity may be regularly carried on even though its performance is infrequent or seasonal.

(4) Ordinarily, a trade or business is substantially related to the activities for which an organization is granted exemption if the principal purpose of such trade or business is to further (other than through the production of income) the purpose for which the organization is granted exemption. In the usual case the nature and size of the trade or business must be compared with the nature and extent of the activities for which the organization is granted exemption in order to determine whether the principal purpose of such trade or business is to further (other than through the production of income) the purpose for which the organization is granted exemption. For example, the operation of a wheat farm is substantially related to the exempt activity of an agricultural college if the wheat farm is operated as a part of the educational program of the college, and is not operated on a scale disproportionately large when compared with the educational program of the college. Similarly, a university radio station or press is considered a related trade or business if operated primarily as an integral part of the educational program of the university, but is considered an unrelated trade or business if operated in substantially the same manner as a commercial radio station or publishing house. A trade or business not otherwise related does not become substantially related to an organization's exempt purpose merely be-

cause incidental use is made of the trade or business in order to further the exempt purpose. For example, the manufacture and sale of a product by an exempt college would not become substantially related merely because students as part of their educational program perform clerical or book-keeping functions in the business. In some cases, the business may be substantially related because it is a necessary part of the exempt activity. For example, in the case of an organization described in section 501(c)(3) and engaged in the rehabilitation of handicapped persons, the business of selling articles made by such persons as a part of their rehabilitation training would not be considered an unrelated business since such business is a necessary part of the rehabilitation program.

(5) If an organization receives a payment pursuant to a contract or agreement under which such organization is to perform research which constitutes an unrelated trade or business, the entire amount of such payment is income from an unrelated trade or business. See, however, section 512(b), (7), (8), and (9), relating to the exclusion from unrelated business taxable income of income derived from research for the United States, or any State, and of income derived from research performed for any person by a college, university, hospital, or organization operated primarily for the purpose of carrying on fundamental research the results of which are freely available to the general public.

(b) *Exceptions.* Section 513(a) specifically states that the term *unrelated trade or business* does not include:

(1) Any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation; or

(2) Any trade or business carried on by an organization described in section 501(c)(3) or by a governmental college or university described in section 511(a)(2)(B), primarily for the convenience of its members, students, patients, officers, or employees; or

(3) Any trade or business which consists of selling merchandise, substantially all of which has been received by

the organization as gifts or contributions

An example of the operation of the first of the exceptions mentioned above would be an exempt orphanage operating a retail store and selling to the general public, where substantially all the work in carrying on such business is performed for the organization by volunteers without compensation. An example of the second exception would be a laundry operated by a college for the purpose of laundering dormitory linens and the clothing of students. The third exception applies to so-called *thrift shops* operated by a tax-exempt organization where those desiring to benefit such organization contribute old clothes, books, furniture, etc., to be sold to the general public with the proceeds going to the exempt organization.

(c) *Special rules respecting publishing businesses.* For a special rule with respect to publishing businesses carried on by an organization, see section 513(c) of the Code prior to its amendment by section 121(c) of the Tax Reform Act of 1969 (83 Stat. 542).

(d) *Effective date.* Except as provided in paragraph (g) of § 1.513-1, this section is applicable with respect to taxable years beginning before December 13, 1967.

(Sec. 513 as amended by sec. 4, Act of July 14, 1960 (P.L. 86-667, 74 Stat. 536); secs. 121 (b)(4) and (c), Tax Reform Act of 1969 (83 Stat. 536, 542))

[T.D. 6500, 25 FR 11737, Nov. 26, 1960, as amended by T.D. 6525, 26 FR 190, Jan. 11, 1961; T.D. 6939, 32 FR 17657, Dec. 12, 1967; T.D. 7392, 40 FR 58643, Dec. 18, 1975; 40 FR 60053, Dec. 31, 1975]

### § 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