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Action on Decision

Subject: Golden Belt Telephone Cooperative v. Commissioner
108 T.C. 498 (1997)
T.C. Docket No. 21677-95

Issue:

Whether billing and collection services performed by a rural telephone cooperative on behalf of long-distance carriers constitute "communication services" as defined in I.R.C. section 501(c)(12)(B).

Discussion:

Petitioner is a rural telephone cooperative corporation. In addition to local telephone service, it provides its members with long-distance service through connection with long-distance carriers. Petitioner sends a single monthly telephone bill to each member that includes charges for both local and long-distance calls. Upon collection of these charges, it remits to the long-distance carriers an appropriate portion of the amount for the long-distance calls and retains the remainder as compensation for providing billing and collection services.

Under section 501(c)(12), a cooperative telephone company qualifies as a tax exempt entity if at least "85 percent... of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses." In determining whether a telephone cooperative has satisfied the 85 percent test, section 501(c)(12)(B) provides that income received "from a nonmember telephone company, for the performance of communication services which involve members" of the cooperative shall not be taken into account. At issue is whether income received by petitioner for billing and collection services performed on behalf of long-distance carriers qualifies as income received for the performance of "communication services."

It was the Service's position, based on the legislative history of section 501(c)(12), that amounts received by a rural telephone cooperative for billing and collection services constitute nonmember income for purposes of the 85 percent income test. The Service concluded that "communication services" under section 501(c)(12)(B) is intended to apply only to amounts received for "call-completion services." Billing and collection services which could be performed by any entity and is not unique to telephone companies, are more like accounting services (i.e. financial and administrative) and not "call-completion services."

The Tax Court noted that in 1992 the Federal Communications Commission (FCC) formally reversed the position it had previously taken to the effect that billing and collection services are not "inherently a communications service under the Communications Act of 1934," and held that billing and collection services are "properly considered a communication service." In finding that billing and collection services constituted "communication services" within the meaning of section 501(c)(12)(B)(i), the Tax Court relied heavily on the FCC's revised interpretation. The Tax Court stated that when Congress enacted section 501(c)(12), it incorporated the term "communication services" into the statute, and although there is nothing explicitly linking the definition in section 501(c)(12)(B) to the Communications Act of 1934, nevertheless, the FCC has defined what is a communication service for over a decade without any Congressional action.

We disagree with the Tax Court's reasoning. Another governmental agency's interpretation has little relevance in interpreting the Internal Revenue Code. See, Old Colony R.R. Co. v. Commissioner, 284 U.S. 552, 562 (1932). Nevertheless, billing and collection services may be viewed as an element of completing long-distance calls for rural telephone cooperative members. Moreover, there is no clear authority holding that billing and collection services are not "communication services" under section 501(c)(12)(B). Accordingly we agree that income received from long-distance carriers for billing and collection services constitutes income from "communication services" and is not included in determining whether a rural telephone cooperative satisfies the 85 percent member income test of section 501(c)(12).

Recommendation:

Acquiescence in result only.

Reviewers:

RONALD B. WEINSTOCK
Attorney

Approved: STUART L. BROWN
Chief Counsel

By:

SARAH HALL INGRAM
Associate Chief Counsel
(Employee Benefits and
Exempt Organizations)

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