

A real-estate board whose primary purpose or activities is the operation of a multiple listing system is considered to be rendering particular services for its members and is not exempt from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code of 1954.

Advice has been requested whether the operation of a multiple listing system by an otherwise exempt real estate board will cause it to be denied exemption from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code of 1954.

The instant real-estate board, in addition to carrying on functions similar to those of organizations ordinarily exempt under section 501(c)(6) of the Code, operates a multiple listing service for its members. The stated purpose of such service is (a) to assist members of the board in rendering better service to the public by creating a broader and more active market for real estate; (b) to stimulate and facilitate the transaction of business between members of the board through cooperation and exchange of exclusive listings; (c) to provide a medium through which real estate may be merchandised more efficiently and expeditiously to the advantage of both buyer and seller; and (d) to encourage realtors to uphold high standards of business practice and to further educate them in adhering to the principles of the Realtors' Code of Ethics. Active members, salesmen members and nonresident members of the board in good standing may participate in the service.

The actual function of the multiple listing system in the instant case involves the listing of property for sale by an owner with a real estate broker, under an 'exclusive listing contract,' which becomes available to all other broker-members of the board.

Upon receipt of a listing the board forwards it, with all pertinent information, to its other broker-members. Such listings become the property of the board for a stated period of time, and, upon a sale during this period, a certain percentage of the normal commission is allocated to the board as a fee or commission, the remainder being divided between the selling and listing brokers pursuant to a prearranged schedule. The board also receives specified fees for the distribution, withdrawal and publication of listings. Certain penalties may be imposed for infractions of the rules of the board governing the operation of such service.

Receipts of the board consist of initiation fees and membership fees, fees relating to the operation of the multiple listing service, interest, and income from the sales of literature relating to real estate. The expenditures include salaries and wages, printing, office supplies, photographic expenses and miscellaneous operating expenses. It is shown that the multiple listing service accounts for 75 percent of the board's income and 80 percent of its expenses.

Section 501(c) of the Internal Revenue Code of 1954 describes certain organizations exempt from income tax under section 501(a) and reads, in part, as follows:

(6) Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations provides, in part, as follows:

A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league. \* \* \*

The questions for determination are whether the operation of the multiple listing service by the instant real-estate board constitutes the performance of particular services for individual persons and whether the operation of a real estate multiple listing service is a business of a kind ordinarily carried on for profit, both within the meaning of section 1.501(c)(6)-1 of the regulations. It is apparent that the multiple listing system as operated by real estate boards is inherently designed for the rendering of particular services for individual members as a convenience and economy in the conduct of their respective businesses. Therefore, the instant organization, instead of primarily engaging in activities for the improvement of business conditions within the real estate business generally, is performing particular services for its members through the maintenance and operation of its multiple listing system by providing them with listings of properties for sale, which serve them as a convenience and economy in the conduct of their businesses. It is further concluded that the operation of a real estate multiple listing service constitutes a business of a kind ordinarily carried on for profit.

Accordingly, it is held that, where the primary purpose or activity of a real-estate board is the operation of a multiple listing system, the real-estate board is not entitled to exemption from Federal income tax as an organization described in section 501(c)(6) of the Code.

Ruling and determination letters which have been issued granting exemption from income tax under section 501(c)(6) of the Code to such real-estate boards will be revoked. However, such revocations generally will not be retroactive prior to January 1, 1958.