

Income derived from a lease of a pipeline system, consisting of right-of-way interests in land, pipelines buried in the ground, pumping stations, plants, equipment, and other appurtenant properties, constitutes rent from real property (including personal property leased with the real property) within the meaning of section 512(b)(3) of the Internal Revenue Code of 1954.

Advice has been requested whether income from the lease of a pipeline facility under the circumstances set forth below constitutes rent within the meaning of section 512(b)(3) of the Internal Revenue Code of 1954.

An organization otherwise exempt from Federal income tax under section 501(a) of the Code, but which is subject to the tax imposed by section 511 of the Code, held title to a pipeline system consisting of right-of-way interests in land, pipelines buried in the ground, pumping stations, equipment, and other appurtenant property. The organization leased the system to an operating company and collected rents therefrom.

Section 512(b)(3) of the Code provides that for the purpose of determining unrelated business taxable income imposed by section 511 of the Code there shall be excluded all rents from real property (including personal property leased with the real property) and all deductions directly connected with such rents.

The question is whether income derived from the lease of the pipeline system is rent within the exception provided by section 512(b)(3) of the Code.

The basic component of the pipeline system, i.e., the easement giving right-of-way interests in land, constitutes real property. See 3 Powell, Real Property, paragraph 405 (1966).

Accordingly, income derived from a lease of the pipeline system herein described constitutes rent from real property (including personal property leased with the real property) within the meaning of section 512(b)(3) of the Code.