

A government agency may be a member of an electric cooperative for purposes of section 501(c)(12) of the Internal Revenue Code of 1954.

Advice has been requested whether a government agency may be a member of an electric cooperative for purposes of section 501(c)(12) of the Internal Revenue Code of 1954.

The cooperative is a nonprofit corporation organized to generate, transmit, and distribute electric power to its members and others. One member is a government agency from which the cooperative derives more than 15 percent of its annual gross income. Power is furnished to the agency on the same basis as to other members.

Section 501(c)(12) of the Code provides for the exemption from Federal income tax of mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

Often, government agencies do not seek membership in electric cooperative organizations because they are prohibited from doing so by local law or other authority. However, neither section 501(c)(12) of the Code nor the Income Tax Regulations promulgated thereunder preclude such agencies from membership in an organization exempt under that section.

Accordingly, since this government agency is admitted to membership in the electric cooperative, it is a member for purposes of section 501(c)(12) of the Code.