

The sale of scientific books and city souvenirs by a museum of folk art exempt from tax under section 501(c)(3) of the Code constitutes unrelated trade or business even though other items sold in the museum shop are related to its exempt function.

Advice has been requested whether, under the circumstances described below, the sales activities of an art museum exempt from Federal income tax as an educational organization under section 501(c)(3) of the Internal Revenue Code of 1954 constitute unrelated trade or business within the meaning of section 513 of the Code.

The organization maintains and operates an art museum devoted to the exhibition of American folk art. It operates a shop in the museum that offers for sale of the general public: (1) reproductions of works in the museum's own collection and reproductions of artistic works from the collections of other art museums (these reproductions take the form of prints suitable for framing, postcards, greeting cards, and slides); (2) metal, wood, and ceramic copies of American folk art objects from its own collection and similar copies of art objects from other collections of art works; and (3) instructional literature concerning the history and development of art and, in particular, of American folk art. The shop also rents originals or reproductions of paintings contained in its collection. All of its reproductions are imprinted with the name of the artist, the title or subject matter of the work from which it is reproduced, and the museum's name.

Also sold in the shop are scientific books and various souvenir items relating to the city in which the museum is located.

Section 511(a) of the Code imposes a tax upon the unrelated business taxable income (as defined in section 512) of organizations exempt from Federal income tax under section 501(c)(3). Section 512(a) of the Code defines 'unrelated business taxable income' as the gross income from any 'unrelated trade or business' regularly carried on by the organization as computed in the manner provided in section 512.

The term 'unrelated trade or business' is defined in section 513 of the Code as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its exempt functions.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that trade or business is 'substantially related' to purposes for which exemption is granted only if the production or distribution

of the goods from which the gross income is derived 'contributes importantly' to the accomplishment of those purposes.

Section 513(c) of the Code and section 1.513-(b) of the regulations provide that trade or business includes any activity which is carried on for the production of income from the sale of goods. An activity does not lose its identity as trade or business merely because it is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which may not be related to the exempt purposes of the organization.

Thus, sales of a particular line of merchandise any be considered separately to determine their relatedness to the exempt purpose. Section 1.513-1(d)(2) of the regulations emphasizes that it is the particular facts and circumstances involved in each case which determines whether the activities in question contribute importantly to the accomplishment of any purpose for which the organization is exempt.

An art museum is exempt as an educational organization on the basis of its ownership, maintenance, and exhibition for public viewing of an art collection. The sale and rental of reproductions of works from the museum's own collection and reproductions of artistic works not owned by the museum contribute importantly to the achievement of the museum's exempt educational purpose by making works of art familiar to a broader segment of the public, thereby enhancing the public's understanding and appreciation of art. The same is true with respect to literature relating to art.

Accordingly, it is held that these sales activities do not constitute unrelated trade or business under section 513 of the Code.

On the other hand, scientific books and souvenir items relating to the city where the museum is located have no causal relationship to art or to artistic endeavor and, therefore, the sale of these items does not contribute importantly to the accomplishments of the subject organization's exempt educational purpose which, as an art museum, is to enhance the public's understanding and appreciation of art. The fact that some of these items could, in a different context, be held related to the exempt educational purpose of some other exempt educational organization does not change the conclusion that in this context they do not contribute to the accomplishment of this organization's exempt educational purpose.

Additionally, under the provisions of section 513(c) of the Code, the activity with respect to sales of such items does not lose identity as trade or business merely because the museum also sells articles which do contribute importantly to the accomplishment of its exempt function.

Accordingly, it is held that the sale of those articles having no relationship to American folk art or to art generally, constitutes unrelated trade or business under section 513 of the Code.