

Commercial fishing industry promotion. A nonprofit organization whose members are involved in the commercial fishing industry in a state that publishes a monthly newspaper of commercial fishing technical information and news and that derives its income primarily from membership dues and sale of advertising does not qualify as an agricultural organization under section 501(c)(5) of the Code but may qualify as a business league under section 501(c)(6).

Advice has been requested whether the nonprofit organization described below qualifies for exemption from Federal income tax under section 501(c)(5) or 501(c)(6) of the Internal Revenue Code of 1954.

The organization is organized for the purpose of promoting the commercial fishing industry in a particular State. Membership in the organization is open to any individual or business in the State involved in the commercial fishing industry.

The organization carries out the purpose for which it is organized through the publication and dissemination of a newspaper that contains news of events of interest to fishermen and new techniques and advances in the commercial fishing industry. The newspaper is published monthly and provides technical information on all sectors of the commercial fishing industry especially in the areas of business information, improved fishing techniques, ecological developments, and informed stock management. The newspaper is distributed free to all licensed commercial fishermen in the State although some copies are sold on a subscription basis.

The organization receives its financial support from membership dues, from the sale of commercial advertising space in the newspaper, and from a limited number of subscription sales. Its expenses are for salaries, printing, mailing, and other costs associated with the publication of the newspaper.

Section 501(c)(5) of the Code provides, in part, for the exemption from Federal income tax of agricultural organizations.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues 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(d)(5)-1 of the Income Tax Regulations provides that organizations contemplated by section 501(c)(5) of the Code as entitled to recognition of exemption as agricultural organizations are those which have as their objects the betterment of the conditions of those engaged in agricultural

pursuits, the improvement of the quality of agricultural products, and the development of a higher degree of efficiency in agricultural occupations.

Section 1.501(c)(6)-1 of the regulations defines a business league as an association of persons having a common business interest, the purpose of which is to promote such common interest.

The scope of the term 'agricultural' for purposes of section 501(c)(5) of the Code should be confined to its ordinary and commonly accepted meaning. Webster's Third New International Dictionary (3rd ed. 1961) defines 'agricultural' as 'the science or art of cultivating the soil, harvesting crops, and raising livestock.' Thus, commercial fishing falls outside the scope of the term 'agricultural' when that term is used in its commonly accepted sense. See section 1.175-3 of the regulations which specifically excludes from the definition of the business of farming the catching or harvesting of fish. See also Rev. Rul. 55-661, 1955-2 C.B. 270, which holds that an organization which purchases supplies for its member fishermen and oyster growers is not a farmers' association for purposes of section 521 of the Code.

Accordingly, since the activities of the subject organization are directed toward the betterment of the conditions of those engaged in commercial fishing, it does not qualify for exemption from Federal income tax as an agricultural organization described in section 501(c)(5) of the Code.

Compare Rev. Rul. 74-488, 1974-2 C.B. 166, which holds that the production of fish on privately-owned fish farms is an agricultural activity within the meaning of section 501(c)(5) of the Code.

The organization is an association of persons having a common business interest in the commercial fishing industry. By operating in the manner described above, it is promoting such common business interest. Accordingly, the organization qualifies for exemption from Federal income tax under section 501(c)(6) of the Code.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1024, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(6) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.