

Unrelated business income; employees' trust as limited partner. The investment of an exempt employees' trust as a limited partner in a partnership carrying on an unrelated trade or business may result in unrelated business taxable income within the meaning of section 512 of the Code.

Advice has been requested whether, under the circumstances described below, investment activity by an exempt employees' trust may result in unrelated business taxable income within the meaning of section 512 of the Internal Revenue Code of 1954.

An exempt employees' trust became a limited partner in a partnership that was created under the laws of a state which recognizes such interests. The limited partners do not participate in the management of the partnership and their liability is limited to the amount of their contributions. The partnership regularly carries on a trade or business.

Section 511 of the Code imposes a tax on the unrelated business taxable income of certain organizations, one of which is an exempt employees' pension profit-sharing or stock bonus trust.

Section 513(b) of the Code defines 'unrelated trade or business' to mean, in the case of an exempt employees' trust, any trade or business regularly carried on by such trust or by a partnership of which it is a member.

Section 512(c) of the Code requires that an exempt employees' trust shall include, in computing its unrelated business taxable income, its share of the gross income of the partnership of which it is a member derived from a trade or business regularly carried on by the partnership which, with respect to such organization is an unrelated trade or business regularly carried on by it and its share of the partnership deductions directly connected with such gross income.

Section 512(c) of the Code uses the term 'member' of a partnership without qualification. In setting forth special rules applicable to members of partnerships in computing their unrelated business taxable income, section 512(c) makes no distinction between general and limited partners. See also S. Rep. No. 1402, 85th Cong., 2d. Sess. 2 (1958), 1958-1 C.B. 656, at 657 which states that, under existing law, income from a partnership interest held by a charitable organization-whether the partnership interest is that of a general partner or that of a limited partner-is unrelated business income except to the extent that the income received by the partnership is specifically excluded as dividends, interest, royalties, and the like.

Accordingly, the exempt trust's investment as a limited partner in a partnership carrying on an unrelated trade or

business may result in unrelated business taxable income within the meaning of section 512 of the Code.