

ISSUE

Is the sale of broadcasting rights to an annual intercollegiate athletic event by an organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code unrelated trade or business within the meaning of section 513?

FACTS

The organization was created by a regional collegiate athletic conference, made up of universities exempt under section 501(c)(3) of the Code, for the purpose of conducting an annual competitive athletic game between the champion of the conference and another collegiate team. The annual game generates income from various sources including admission charges and the sale of exclusive broadcasting rights to a national radio and television network.

LAW AND ANALYSIS

Section 513(a) of the Code defines the term 'unrelated trade or business' as any trade or business the conduct of which is not substantially related (aside from the need of an organization for income or funds or the use it makes of the profits derived) to the exercise or performance by an organization of its exempt function.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that a trade or business is 'substantially related' only if the production or distribution of the goods or the performance of the service from which the gross income is derived contributes importantly to the accomplishment of the purposes for which exemption is granted. Whether activities productive of gross income contribute importantly to the accomplishment of any purpose for which an organization is granted exemption depends in each case upon the facts and circumstances involved.

College and university athletic organizations that promote certain aspects of athletic competition have generally been held to be educational and thus exempt from federal income tax. An athletic program is considered to be an integral part of the educational process of a university, and activities providing necessary services to student athletes and coaches further the educational purposes of the university. See Rev. Rul. 67-291, 1967-2 C.B. 184. See also Rev. Rul. 64-275, 1964-2 C.B. 142.

The Service has traditionally taken the position that income from paid admissions to college and university athletic events, regardless of the number of persons in attendance or the amount of paid admissions, is not taxable as income from unrelated trade or business because the events themselves are related to the

educational purposes of the colleges and universities. This position is consistent with the following language contained in the Committee Reports on the Revenue Act of 1950, in which the predecessor to section 513 of the Code was enacted.

Athletic activities of schools are substantially related to their educational functions. For example, a university would not be taxable on income derived from a basketball tournament sponsored by it, even where the teams were composed of students from other schools. (H.R. Rep. No. 2319, 81st Cong., 2d Sess. 37, 109 (1950), 1950-2 C.B. 380, 458.)

Of course, income of an educational organization from charges for admissions to football games would not be deemed to be income from an unrelated business, since its athletic activities are substantially related to its athletic program. (S. Rep. No. 2375, 81st Cong., 2d Sess. 29, 107 (1950), 1950-2 C.B. 483, 505.)

On the basis of the facts and circumstances presented in this case the educational purposes served by intercollegiate athletic activities are identical whether conducted directly by individual universities or by their regional athletic conference. Also, the educational purposes served by exhibiting a game before an audience that is physically present and exhibiting the game on television or radio before a much larger audience are substantially similar. Therefore, the sale of the broadcasting rights and the resultant broadcasting of the game contributes importantly to the accomplishment of the organization's exempt purposes.

HOLDING

The sale of broadcasting rights, under the circumstances described, is substantially related to the purpose constituting the basis for the organization's exemption and is not unrelated trade or business within the meaning of section 513 of the Code.

See Rev. Rul. 80-294, page 9, and Rev. Rul. 80-295, page 10, this Bulletin.