
26 CFR 601.201: Rulings and determinations letters. (Also Part I, Sections 501(c)(5), 501(c)(6), 512(a)(1); 1.501(c)(5)-1, 1.501(c)(6)-1, 1.512(a)-1.)

Rev. Proc. 97-12

SECTION 1. PURPOSE

This revenue procedure amplifies, in part, and modifies, in part, Rev. Proc. 95-21, 1995-1 C.B. 686, which establishes when associate member dues payments received by organizations described in section 501(c)(5) of the Internal Revenue Code will be treated as gross income from the conduct of an unrelated trade or business under section 512.

SECTION 2. BACKGROUND

As noted in Rev. Proc. 95-21, section 2, organizations described in section 501(c)(5) often receive dues payments not only from members that are accorded full privileges in voting for the directors of the organization, but also from associate members that are accorded less than full or no voting privileges. Rev. Proc. 95-21, section 3, states that the Service will not treat dues payments from associate members as gross income from the conduct of an unrelated trade or business unless, for the relevant period, the associate member category has been formed or availed

of for the principal purpose of producing unrelated business income. The revenue procedure also states that the Service will treat dues payments from associate members as not included in gross income from an unrelated trade or business if the associate member category has been formed or availed of for the principal purpose of furthering the organization's exempt purposes. The revenue procedure further notes that in applying these principles, the Service will look to the purposes and activities of the organization rather than of its members.

Section 1115 of the Small Business Job Protection Act of 1996, Pub.L. No. 104-188, amends section 512 as it applies to the treatment of dues paid to agricultural or horticultural organizations described in section 501(c)(5).

Under newly enacted section 512(d), if an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and the amount of such required annual dues does not exceed \$100, no portion of such dues will be treated as derived from an unrelated trade or business by reason of any benefits or privileges to which members of the organization are entitled. The \$100 dues amount is indexed according to a cost-of-living adjustment for taxable years beginning in a calendar year after 1995. The term "dues" is defined as any payment (whether or not designated as dues), which is required to be made in order to be recognized by the organization as a member. This provision applies to taxable years beginning after December 31, 1986, and contains a transitional rule for periods prior to that date.

SECTION 3. PROCEDURE

01. Rev. Proc. 95-21 is modified to take into account newly enacted section 512(d). Thus, Rev. Proc. 95-21 will not apply to agricultural and horticultural organizations described in section 501(c)(5) if annual dues payments from members do not exceed \$100 for taxable years beginning after December 31, 1986. The \$100 dues amount is indexed according to a cost-of-living adjustment for taxable years beginning in a calendar year after 1995.

02. Rev. Proc. 95-21 will continue to apply to agricultural and horticultural organizations described in section 501(c)(5) for purposes of determining whether member dues payments will be treated as gross income from an unrelated trade or business under section 512 where required annual dues amounts paid by members exceed \$100. If required annual dues exceed \$100 per member, the entire dues payment will be subject to the principles of Rev. Proc. 95-21.

03. Rev. Proc. 95-21 will also continue to apply to labor organizations described in section 501(c)(5) for purposes of determining whether associate member dues payments will be treated as gross income from an unrelated trade or business under section 512.

04. Rev. Proc. 95-21 is amplified to the extent that the principles contained therein are also applicable to organizations described in section 501(c)(6). Thus, Rev. Proc. 95-21 will also be applied to section 501(c)(6) organizations for purposes of determining whether associate member dues payments will be treated as gross income from an unrelated trade or business under section 512.

SECTION 4. EFFECTIVE DATE

This revenue procedure is effective for all open years.

SECTION 5. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 95-21 is amplified, in part, and modified, in part.

DRAFTING INFORMATION

The principal author of this revenue procedure is Charles Barrett of the Exempt Organizations Division of the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations). For further information regard-

ing this revenue procedure contact Mr. Barrett at (202) 622-8152 (not a toll-free number).
