

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

TREATMENT OF INCOME FROM UN-RELATED TRADE OR BUSINESS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC: LR: T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to clarify the meaning of the terms "unrelated business taxable income" and "unrelated trade or business" as they relate to certain exempt organizations, the Income Tax Regulations (26 CFR Part 1) under sections 513 and 512 of the Internal Revenue Code of 1954 are amended as follows:

PARAGRAPH 1. Paragraphs (b) and (c) of § 1.513-1 are respectively redesignated as paragraphs (e) and (f), and § 1.513-1 is otherwise amended to read as follows:

§ 1.513-1 Definition of unrelated trade or business.

(a) In general. As used in section 512 the term "unrelated business taxable in-

come" means the gross income derived by an organization from any unrelated trade or business regularly carried on by it, less the deductions and subject to the exceptions, additions and limitations provided in section 512. Section 513 specifies with certain exceptions that the phrase "unrelated trade or business" means, in the case of an organization subject to the tax imposed by section 511, 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 charitable, educational or other purpose or function constituting the basis for its exemption under section 501 (or, in the case of an organization described in sec. 511(a)(2)(B), to the exercise or performance of any purpose or function described in sec. 501 (c)(3)). (For certain exceptions from this definition, and a special rule for certain publishing businesses, see paragraphs (e) and (f) of this section. For a special definition of "unrelated trade or business" applicable to certain trusts, see sec. 513(b).) Therefore, unless one of the specific exceptions of section 512 or 513 is applicable, gross income of an exempt organization subject to the tax imposed by section 511 is includible in the computation of unrelated business taxable income if (1) it is income from trade or business, (2) the conduct of such trade or business is not substantially related (other than through the production of funds) to the organization's performance of its exempt functions and (3) such trade or business is regularly carried on by the organization.

(b) Trade or business. For the purposes of section 513 the term "trade or business" has the same meaning it has in section 162, and generally includes any activity carried on for the production of income from the sale of goods or performance of services. The term "trade or business" thus is not limited to integrated aggregates of assets, activities and good-will which comprise businesses for the purposes of certain other provisions of the Internal Revenue Code. Activities of producing or distributing goods or performing services from which a particular amount of gross income is derived do not lose identity as trade or