

[Exemptions]

[Federal income tax exempt status issued by IRS &/or as declared by Taxpayers]

26 U.S. Code § 501 (c)(5)



501(c)(5) — Labor, Agricultural and Horticultural Organizations



Part 7. Rulings and Agreements

Chapter 25. Exempt Organizations Determinations Manual

Section 5. Labor, Agricultural, and Horticultural Organizations

7.25.5 Labor, Agricultural, and Horticultural Organizations

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Manual Transmittal

May 21, 2014

Purpose

(1) This transmits the revised text for IRM 7.25, Exempt Organizations Determinations Manual, Section 5, Labor, Agricultural and Horticultural Organizations.

Material Changes

- (1) Moved IRM 7.25.5.1.1(1)(c) to the discussion in IRM 7.25.5.1.1(2) so that the limitation and exception for savings and investment plans are discussed together. Also added citation to regulations.
- (2) IRM 7.25.5.1.2(2)(a) and IRM 7.25.1.2(2)(b), made revisions to clarify the reason that inurement in the case of an agricultural organization does not necessarily constitute inurement in the case of a labor organization.
- (3) IRM 7.25.5.1.2(2)(b), added citation to Rev. Rul. 70-372 to support the proposition that the exempt purposes of agricultural organizations include benefitting the conditions of those engaged in the industry generally but not benefitting individual members.
- (4) IRM 7.25.5.2(1), added cf. citation to Portland Co-operative Labor Temple Ass'n to support broad definition of labor organization.
- (5) IRM 7.25.5.2.3(2)(d), changed heading to “Litigation Support” from “Public Service Representative” to more accurately describe the scope of the ruling. The ruling’s rationale indicates that litigation support activities would be valid in support of any union, not just one representing public employees.
- (6) IRM 7.25.5.2.3(2)(e), deleted legal defense fund activities discussion because the supporting revenue ruling concluded only that a legal defense fund was appropriate when conducted as a “minor” activity.
- (7) IRM 7.25.5.2.3(2)(f), added additional description of the activities of the organization described in Rev. Rul. 78-42 to more accurately describe the scope of the activities undertaken by the IRC 501(c)(5) apprenticeship and training committee.
- (8) IRM 7.25.5.2.3(2)(g), added additional description of Rev. Rul. 76-420 to indicate why a privately operated strike-fund does not qualify as a IRC 501(c)(5) labor organization.
- (9) IRM 7.25.5.3(1), split the paragraph into separate paragraphs to reflect that the first sentence provides a general definition of an IRC 501(c)(5) agricultural organizations, while the remainder defines “agricultural” for (c)(5) purposes.
- (10) IRM 7.25.5.3(2) and IRM 7.25.5.3(3) were renumbered as IRM 7.25.5.3(3) and IRM 7.25.5.3(4) to reflect the addition of new IRM 7.25.5.3(2). Consolidated new 7.25.5.3(4) into new 7.25.5.3(3) because both provisions deal with the definition of horticulture and its status as a type of agriculture.
- (11) New IRM 7.25.5.3(2), moved statutory definition of “agriculture” to beginning because it reflects a clear, concise summary of agricultural activities. Added citation to Rev. Rul. 67-252 to support further definition of “agriculture.”
- (12) New IRM 7.25.5.3(2), moved descriptions of “livestock” and “aquatic resources” to separate sub-paragraphs 7.25.5.3(2)(a) and (b) to provide additional clarity.
- (13) New IRM 7.25.5.3(2)(a), added citation to Rev. Rul. 56-245 to support proposition that fur (pelt)-bearing animals are livestock.
- (14) New IRM 7.25.5.3(2)(b), was revised to reflect fuller summary of what constitutes “aquatic resources” per the legislative history to IRC 501(g).
- (15) New IRM 7.25.5.3(3), was revised to reflect that horticulture is most clearly defined in Guerrero.

(16) IRM 7.25.5.3.2(1), added citation to regulations supporting principal purposes of an IRC 501(c)(5) agricultural organization.

(17) IRM 7.25.5.3.2(1), replaced citation to Rev. Rul. 67-216 with citation to Rev. Rul. 67-252, which better supports the proposition that an IRC 501(c)(5) organization's primary purpose must be to promote the interest of those involved in agriculture, even if not all its members are involved in agriculture. Rev. Rul. 67-216 concerned the qualification of an agricultural fair as an IRC 501(c)(3) educational organization and does not mention or raise at all whether the organization would qualify as an IRC 501(c)(5) organization.

(18) IRM 7.25.5.3.3(1)(a), revised description of Rev. Rul. 57-466 to more accurately describe the organization therein.

(19) IRM 7.25.5.3.3(1)(f), revised description of Rev. Rul. 74-118 to more accurately describe the activities of the farmers' wives' organization that supported its exemption under 501(c)(5).

(20) IRM 7.25.5.3.5(1)(b), added a sentence to clarify that the key distinction between Rev. Rul. 74-518 (milk-testing organization qualifies under IRC 501(c)(5)) and Rev. Rul. 70-372 (milk-testing organization doesn't qualify under IRC 501(c)(5)) was whether the activity's benefit to members was incidental as compared to the activity's benefit to the agricultural (dairy farming) community as a whole.

(21) IRM 7.25.5.5(1), added clarification that political activity may not be an IRC 501(c)(5) organization's primary activity. See GCM 34233 (Dec. 3, 1966) (addressing political activity of an IRC 501(c)(5) labor organization).

(22) IRM 7.25.5.5(3), added reference to IRC 6033(e) reporting/tax rules, which relates to the IRC 162(e) limitation on deductibility for dues connected to lobbying and political activity. Also cross referenced IRM 7.25.12, which discusses IRC 6033 notice and proxy tax issues in detail and also describes IRC 162(e).

(23) IRM 7.25.5.5(4), revised to make explicit that the IRC 527(f) tax applies to IRC 501(c)(5) organizations that make "exempt function" expenditures as opposed to political expenditures. The definition of "exempt function" in 527(e)(2) is slightly broader than the 501(c) political expenditure concept because it is not limited to involvement in contests for elected offices. Also cross referenced IRM 7.25.11, which discusses Section 527 in more detail.

(24) Added IRM 7.25.5.6 to include rule set out in regulations that IRC 501(c)(5) organizations are subject to tax on unrelated business income. Cross referenced IRM 7.27.4 for discussion of that topic.

Effect on Other Documents

IRM 7.25.5, dated June 1, 2011, is revised.

Audience

TEGE (Exempt Organizations)

Effective Date

(05-21-2014)

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7.25.5.1 (05-21-2014)

Overview

1. This section discusses the exemption of labor, agricultural, or horticultural organizations, under IRC 501(c)(5).

7.25.5.1.1 (05-21-2014)

Regulations

1. The regulations state that the organizations contemplated by IRC 501(c)(5) are those which:
 - A. have no net earnings inuring to the benefit of any member, and
 - B. have as their objects the betterment of the conditions of persons engaged in the pursuits of labor, agriculture, or horticulture, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations. Reg. 1.501(c)(5)-1(a).
2. An organization is not described in IRC 501(c)(5) if its principal activity is to receive, hold, invest, disburse or otherwise manage funds associated with savings or investment plans or programs, including pension or other retirement savings plans or programs. Reg. 1.501(c)(5)-1(b)(1). But, this limitation does not apply to certain dues-funded labor organizations described in Reg. 1.501(c)(5)-1(b)(2). The excepted organizations must be established and maintained by another labor organization, funded by membership dues and not by employer contributions, and must not be directly or indirectly established or maintained by employers or governmental units.

7.25.5.1.2 (05-21-2014)

Inurement Prohibition

1. Reg. 1.501(c)(5)-1(a)(1) prohibits the inurement of earnings to the benefit of any member of the IRC 501(c)(5) organization.
2. What constitutes inurement of earnings to a member of an IRC 501(c)(5) agricultural or horticultural organization does not necessarily constitute the inurement of earnings to a member of an IRC 501(c)(5) labor organization. This is illustrated as follows:
 - A. A labor organization described in IRC 501(c)(5) can pay death, sick, accident and similar benefits to its members because a review of the subject, including the legislative history of the provisions exempting labor organizations from income taxation, indicates that labor organizations were exempted for the very reason that they operated, in part, as mutual benefit organizations providing death, sick, accident, and similar benefits to their members. See Rev. Rul. 62-17, 1962-1 C.B. 87.
 - B. On the other hand, the exempt purposes of an IRC 501(c)(5) agricultural organization are to better the conditions of those engaged in agricultural pursuits generally rather than to specifically benefit the individual members. See Rev. Rul. 70-372, 1970-2 C.B. 118. There is no indication agricultural organizations were exempted on the grounds that they operate, in part, as mutual benefit organizations for their members. Therefore, the holding of Rev. Rul. 67-251, 1967-2 C.B. 196, that the provision of welfare aid and financial assistance to the members of an IRC 501(c)(6) organization constitutes proscribed inurement, applies to IRC 501(c)(5) agricultural organizations but does not apply to IRC 501(c)(5) labor organizations. See also Rev. Rul. 67-7, 1967-1 C.B. 137.
 - C. The refund of excess dues to members of an exempt agricultural organization in the same proportion as the dues are paid does not constitute inurement under IRC 501(c)(5). See Rev. Rul. 81-60, 1981-1 C.B. 335.
3. Reg. 1.501(c)(5)-1(b)(1) provides that an organization the principal activity of which is to receive, hold, invest, disburse or otherwise manage funds associated with savings or investment plans or programs, including pension or other retirement savings plans or programs is not described in IRC 501(c)(5).
 - A. Excepted from this prohibition are plans (i) established and maintained by another labor organization which is funded by membership dues, (ii) does not accept employer contributions,

and (iii) was not established or maintained by an employer or government or an agency or entity controlled by a government.

7.25.5.2 (05-21-2014)

Labor Organization

1. A labor organization is an association of workers who have combined to protect or promote the interests of the members by bargaining collectively with their employers to secure better working conditions, wages, and similar benefits. The term includes labor unions, councils, and committees. An IRC 501(c)(5) labor organization need not be a recognized labor union. Cf. *Portland Co-operative Labor Temple Ass'n. v. Commissioner*, 39 B.T.A. 450 (1939) acq. 1939-1 C.B. 28.

7.25.5.2.1 (05-21-2014)

Composition of Membership

1. A labor organization is a membership organization of employees or representatives of employees. The composition of the organization is not as important as are the purposes for which it is formed and operated.
2. An organization need not be composed exclusively of employees in order to be exempt under IRC 501(c)(5). An organization whose membership includes mostly employees and some independent contractors can qualify for exemption as a labor organization under IRC 501(c)(5) if its primary purpose is to better the conditions of its members by negotiating better wages and working conditions with those who contract for its members' services. See Rev. Rul. 74-167, 1974-1 C.B. 134. See also Rev. Rul. 77-154, 1977-1 C.B. 148, which describes a nurses' association whose membership includes some private duty nurses.
3. An organization composed of retired employees can qualify for exemption as a labor organization under IRC 501(c)(5) where it acts to secure and maintain retirement benefits for its members.
4. However, where most of an organization's members are entrepreneurs or independent contractors it will not qualify for exemption as a labor organization under IRC 501(c)(5). See Rev. Rul. 78-288, 1978-2 C.B. 179.

7.25.5.2.2 (05-21-2014)

Control

1. The fact that a collectively bargained dispatch hall was under the supervision of a joint committee composed of an equal number of employer and union representatives does not preclude exemption under IRC 501(c)(5). See Rev. Rul. 75-473, 1975-2 C.B. 213.
2. Persons with no connection with a labor organization should not control the organization. An organization, controlled by private individuals, that provides weekly income to its members in the event of a lawful strike by the member's labor union in return for an annual payment by the members does not qualify for exemption as a labor organization under IRC 501(c)(5). See Rev. Rul. 76-420, 1976-2 C.B. 153.

7.25.5.2.3 (05-21-2014)

Qualifying Activities

1. An IRC 501(c)(5) organization must have as its principal purposes the betterment of the conditions of workers, the improvement of their products, and the development of a higher degree of efficiency in their respective occupations.
2. Principal activities that qualify a labor organization for exemption under IRC 501(c)(5) include the following:

- A. Labor Newspaper — A corporation engaged solely in publishing a newspaper containing only matters concerning union activities is exempt under IRC 501(c)(5). See Rev. Rul. 68-534, 1968-2 C.B. 217.
- B. Labor Facility — A corporation operating a "labor temple" containing offices, meeting and recreation halls, and otherwise "providing a home" for several labor unions qualifies for exemption under IRC 501(c)(5). See *Portland Co-operative Labor Temple Ass'n. v. Commissioner*, 39 B.T.A. 450 (1939) acq., 1939-1 C.B. 28.
- C. Dispatch Hall — An organization, established pursuant to a collective bargaining agreement to operate a dispatch hall to allocate work assignments equitably and efficiently among eligible union members and also to provide facilities to investigate and adjudicate grievances, is exempt under IRC 501(c)(5). See Rev. Rul. 75-473, 1975-2 C.B. 213.
- D. Litigation Support — An organization, established by IRC 501(c)(5) labor organizations that represent public employees, that files amicus curiae briefs on behalf of its member organizations or individual employees, in cases of precedential importance to all public employees, qualified for exemption under IRC 501(c)(5). See Rev. Rul. 74-596, 1974 - 2 C.B. 167.
- E. Union and Employer Stewardship Trust — A trust organized pursuant to a collective bargaining agreement, which hired and compensated a steward who was responsible for investigating complaints filed by employees, assisting in the settlement of disputes, and assuring that employers complied with the terms of the collective bargaining agreement, qualified for exemption under IRC 501(c)(5). See Rev. Rul. 77-5, 1977-1 C.B. 146.
- F. Apprenticeship and Training Committee — A trust that conducted various educational courses and programs in various aspects of the trade for local members, employees, or associates of the industry and that also selected apprentices and supervised their training program qualified for exemption under IRC 501(c)(5). The trust also had an affirmative action plan that was approved by the U.S. Department of Labor. See Rev. Rul. 78-42, 1978 - 1 C.B. 158.
- G. Strike and Lockout Fund — An organization controlled by an IRC 501(c)(5) labor organization that provided financial assistance to members of the union during strikes and lockouts may be exempt as a labor organization described in IRC 501(c)(5). See Rev. Rul. 67-7, 1967-1 C.B. 137. Compare to Rev. Rul. 76-420, 1976-2 C.B. 153, which held that an organization controlled by private individuals that provided weekly income to its members in the event of a lawful strike by the member's labor union in return for an annual payment by the member did not qualify for exemption as a labor organization under IRC 501(c)(5) because it did not directly support the efforts of any labor organization to, or make its payments with an objective to, better employment conditions.

7.25.5.2.4 (05-21-2014)
Nonqualifying Activities

- 1. Activities which do not qualify a labor organization for exemption under IRC 501(c)(5) include the following:
 - A. Providing Employment to Members through a Business Activity — An organization established by an IRC 501(c)(5) labor organization that carried on a business activity to furnish employment to its members does not qualify for exemption under IRC 501(c)(5). See Rev. Rul. Rev. Rul. 69-386, 1969-2 C.B. 123.
 - B. Collection of Employment Taxes — An organization created by an association of manufacturers and a labor union to receive employment taxes that the manufacturers were required to deduct

from the pay of their union employees and remit them to federal and state revenue departments was not exempt under IRC 501(c)(5). See Rev. Rul. 66-354, 1966-2 C.B. 207.

- C. Savings Plan — A savings plan for union members established pursuant to a collective bargaining agreement does not qualify for exemption under IRC 501(c)(5). See Rev. Rul. 77-46, 1977-1 C.B. 147.

7.25.5.2.5 (05-21-2014)

Financial Aid to Members

1. Labor organizations are exempt from income tax because, in part, they operate as mutual benefit organizations, providing benefits to their members or their members' families in the event of strike, lockout, death, sickness, accident, etc. Accordingly, payment of such benefits if made under a plan which has as its object the betterment of the conditions of the members does not constitute inurement and does not preclude exemption for the organization under IRC 501(c)(5). See Rev. Rul. 67-7, 1967-1 C.B. 137, and Rev. Rul. 62-17, 1962-1 C.B. 87.

7.25.5.3 (05-21-2014)

Agricultural and Horticultural Organizations

1. Agricultural organizations described in IRC 501(c)(5) promote the interests of persons engaged in raising livestock, harvesting crops or aquatic resources, cultivating useful or ornamental plants, or similar pursuits.
2. For purposes of IRC 501(c)(5), the term "agricultural" includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock. IRC 501(g). It includes the art or science of cultivating the ground including the preparation of the soil, the planting of seeds, the raising and harvesting of crops, and the rearing, feeding, and management of livestock. See Rev. Rul. 67-252, 1967-2 C.B. 195. See also *Fromm Bros. v. United States*, 35 F. Supp. 145 (W.D. Wisc. 1940) and Rev. Rul. 59-12, 1959-1 C.B. 59 for additional descriptions of agriculture.
 - A. "Livestock" includes fur-bearing animals raised in captivity for their pelts, as well as domestic farm animals such as sheep, cattle, hogs, etc. It does not include dogs that are not used as farm animals. See Rev. Rul. 73-520, 1973-2 C.B. 180; Rev. Rul. 56-245, 1956-1 C.B. 204.
 - B. Harvesting aquatic resources includes fishing and related pursuits (such as the taking of lobsters and shrimp), cultivation of underwater vegetation and edible organisms, and fish farms. It does not include mineral resources. S. Rep. No. 94-938, 1976-3 (Vol. 3) C.B.457.
3. Horticulture is a branch of, and is encompassed within the definition of, agriculture. Horticulture concerns the cultivation of a garden or orchards, the science or art of growing fruits, vegetables or flowers, or ornamental plants. For explanation of difference between horticulture/farming and sale of stock, see *Guerrero v. United States Fidelity and Guaranty Co.*, 98 S.W. 2d 796, 128 Tex. 407 (1936). See also Rev. Rul. 59-12, 1959-1 C.B. 59 (operating a nursery); Rev. Rul. 54-194, 1954-1 C.B.171 (Christmas trees).

7.25.5.3.1 (05-21-2014)

Membership

1. Agricultural organizations, like labor organizations, are membership organizations.

7.25.5.3.2 (05-21-2014)

Purposes

1. Agricultural organizations exempt under IRC 501(c)(5) are those that have as their principal purposes the betterment of the conditions of those engaged in agriculture and the improvement of their products and their occupational efficiency. See Reg. 1.501(c)(5)-1(a)(2). An organization's members do not all have to be engaged in agricultural pursuits. However, the organization must have as its primary purpose the

betterment of the conditions of those engaged in agricultural pursuits. See Rev. Rul 67–252, 1967–2 C.B. 195, in which an organization with the purpose of improving business conditions of its members who were not themselves involved in agriculture did not qualify for exemption under IRC 501(c)(5). The organization’s activities only indirectly and remotely improved the conditions of those involved in agriculture.

7.25.5.3.3 (05-21-2014)

Qualifying Activities

1. Qualifying activities for agricultural and horticultural organizations under IRC 501(c)(5) include:
 - A. Farm Bureaus — A farm bureau organized to advance and improve agriculture on a county-wide basis qualified for exemption as an IRC 501(c)(5) agricultural organization. See Rev. Rul. 57–466, 1957–2 C.B. 311.
 - B. Exhibitions and Fairs — An organization formed and operated to conduct exhibitions of live-stock and other farm products can qualify under IRC 501(c)(5). See Rev. Rul. 67– 216, 1967–2 C.B. 180.
 - C. Soil Testing — An organization established by a separate organization of farm bureaus to test soil for members and nonmembers of the farm bureau and educate the community in soil treatment qualified for exemption as an IRC 501(c)(5) agricultural organization. See Rev. Rul. 54–282, 1954–2 C.B. 126.
 - D. Breeders Association — An association organized to guard the purity of the breed of Welsh ponies; to promote interest therein; and to establish, maintain, and publish authoritative records, registers, and transfers of ownership of that breed qualified for exemption as an IRC 501(c)(5) agricultural organization. See Rev. Rul. 55–230, 1955–1 C.B. 71.
 - E. Rodeos — An organization formed for the purpose of supporting and maintaining rodeos in a center near ranch and farm activity was an exempt IRC 501(c)(5) agricultural organization. See Campbell v. Big Spring Cowboy Reunion, A Corp., 210 F.2d 143 (5th Cir. 1954).
 - F. Farmers' Wives — An organization of farmers’ wives that directed all of its activities to enhancing and improving the occupation of farming as a way of life by educating the public about problems facing farmers, supporting activities designed to obtain higher prices for farm products, and recommending legislation favorable to persons engaged in agriculture was held exempt under IRC 501(c)(5). See Rev. Rul. 74–118, 1974–1 C.B. 134.

7.25.5.3.4 (05-21-2014)

Nonqualifying Activities

1. Activities that do not qualify an organization for exemption as an agricultural or horticulture organization under IRC 501(c)(5):
 - A. Horse Racing — An organization devoted solely to horse racing was denied exemption by the Board of Tax Appeals. The court noted that when the organization ceased to conduct a fair where exhibitions of livestock, farm produce, and farm machinery were held, and devoted itself solely to horse racing, it lost its chief claim to an agricultural classification. See Forest City Livestock and Fair Co. v. Commissioner, B.T.A. Memo, 32, 215 (PH)(1932).
 - B. Benefitting Manufacturers — An institute formed by butter and cheese manufacturers to promote scientific research, disseminate data, and encourage and promote educational training in the production and handling of cream and butter does not qualify for exemption as an IRC 501(c)(5) agricultural organization. However, it may qualify as a business league exempt under IRC 501(c)(6). See Rev. Rul. 67–252, 1967–2 C.B. 195.

7.25.5.3.5 (05-21-2014)

Direct Services to Members

1. Where a service merely relieves members of work they would either have to perform themselves or have performed for them, an organization providing that service will not qualify for exemption as an IRC 501(c)(5) agricultural organization. However, where individual benefits are incidental to the objectives of the program as a whole and the industry as a whole benefits, such incidental benefit will not preclude exemption.
 - A. Collection of Data — An organization of agricultural producers formed to process production data for farmers for use in improving milk production of their own dairy herds, does not qualify as an IRC 501(c)(5) agricultural organization. See Rev. Rul. 70-372, 1970-2 C.B. 118. Compare with Rev. Rul 74-518, 1974-2 C.B. 166.
 - B. Dept. of Agriculture Milk Production Program — An organization that operated as an integral and necessary part of a nationwide program to improve milk production by supplying milk production statistical analyses to the U.S. Department of Agriculture as well as milk production records to the individual producers qualified for exemption as an IRC 501(c)(5) agricultural organization. The organization operated for the betterment of all those engaged in dairy farming (agricultural pursuits), and any benefit to the individual members was incidental to this purpose. See Rev. Rul. 74-518, 1974-2 C.B. 166" . Compare with Rev. Rul. 70-372, 1970-2 C.B. 118, where the organization did not qualify under IRC 501(c)(5) because its activities merely benefited its own members.
 - C. Pest Control — A local association of farmers formed to promote more effective agricultural pest control was held exempt under IRC 501(c)(5). The service benefits farmers in general and individual benefits received by the members are only incidental to the overall benefit to local farmers. See Rev. Rul. 81-59, 1981-1 C.B. 334.
 - D. Livestock Facility — An organization that owned and operated a livestock facility and leased it to local members of a nonexempt national association of farmers did not qualify for exemption as an IRC 501(c)(5) agricultural organization. See Rev. Rul. 77-153, 1977-1 C.B. 147.
 - E. Providing Laborers — An organization of farmers formed to furnish farm laborers for individual farmers does not qualify for exemption as an IRC 501(c)(5) agricultural organization. See Rev. Rul. 72-391, 1972-2 C.B. 249.

7.25.5.3.6 (05-21-2014)

Sales Activities

1. Similarly, sales activities can provide a unique direct benefit to members. Where the principal purpose of the organization is to act as a sales agent for its members an organization will not qualify as an IRC 501(c)(5) organization. On the other hand, where the organization limits its activities to negotiating a price that it satisfactory to its members, exemption under IRC 501(c)(5) is available.
 - A. Livestock Auctions — A nonprofit corporation formed to carry out a livestock improvement program and to sponsor and promote sales of livestock for its members did not qualify as an IRC 501(c)(5) agricultural organization. The organization's principal activity was marketing livestock at auction as an agent for its members. See Rev. Rul. 66-105, 1966-1 C.B. 145 and compare with Rev. Rul. 76-399, 1976-2 C.B. 152, below.
 - B. Price Negotiations — An organization of growers and producers of a particular agricultural commodity formed principally to negotiate with processors for the price to be paid to members for their crops and not act as a sales agent for its members was held exempt under IRC 501(c)(5). See Rev. Rul. 76-399,supra.

7.25.5.4 (05-21-2014)

Classification Problems

1. Because of the rather broad language of some of the paragraphs under IRC 501(c), there are situations where a certain amount of overlap occurs, thus creating a question whether an organization should be classified under IRC 501(c)(5) or under some other paragraph. The following discussion provides some general guidelines.

7.25.5.4.1 (05-21-2014)

IRC 501(c)(5) v. IRC 501(c)(3)

1. If an organization is organized and operated exclusively for IRC 501(c)(3) purposes, it will qualify for exemption under IRC 501(c)(3) even if the organization's activities result in the improvement of agricultural or labor pursuits. For example, an organization organized and operated to instruct the public on agricultural matters by conducting annual public fairs and exhibitions of livestock, poultry, and farm products was held exempt as an educational organization under IRC 501(c)(3). Amusement features presented to increase attendance do not prevent an IRC 501(c)(3) exemption, provided these presentations are merely incidental. See Rev. Rul. 67-216, 1967-2 C.B. 180. See also Rev. Rul. 72-101, 1972-1 C.B. 144, describing an apprenticeship training program.
2. Because the activities of agricultural organizations usually have a certain amount of educational value, there are logical grounds for seeking the preferred treatment accorded by IRC 501(c)(3). However, the organization will have to satisfy the requirements of the organizational and operational tests of IRC 501(c)(3). See Reg. 1.501(c)(3)-1 (a)(1).
3. Depending upon how it is organized and operated, a "garden club" may qualify for exemption under IRC 501(c)(3), (4), (5), or (7). A nonprofit corporation will qualify for exemption under IRC 501(c)(5) where it is formed by individuals and firms engaged in the business of horticulture, who intend, through the operation of the club, to better the conditions of persons engaged in horticulture and to improve the grade of their products. The garden club may seek to accomplish these purposes by publishing a monthly trade journal; reporting periodically to its members any new developments in horticultural products; and encouraging the development of better flowers through a system of awards. See Rev. Rul. 66-179, 1966-1 C.B. 139.

7.25.5.4.2 (05-21-2014)

IRC 501(c)(5) v. IRC 501(c)(6)

1. IRC 501(c)(6) provides exemption for, among others, nonprofit business leagues. Many associations that are to some degree related to agriculture may be more properly classified as business leagues. The decisive factor is whether the organization's purpose is to promote the common business interests and better the conditions of persons directly engaged in agricultural pursuits or to promote the common business interest of some other business groups closely related to agriculture such as suppliers of goods or services to the agricultural community or packers or processors of raw agricultural commodities. See, for example, Rev. Rul. 67-252, 1967-2 C.B. 1954.
2. An organization of fur ranchers was formed to encourage better and more economical methods of raising fur-bearing animals, provide for an orderly system for marketing the pelts of animals raised by its members, and create a public demand for their products. It carried out its purposes by furnishing its members educational material on the breeding and raising of fur-bearing animals and the marketing of pelts, procuring agreements from auction companies to market the products of its members, and conducting advertising to encourage the use of fur products. This organization was held to be principally occupied with improving the conditions and products of persons engaged in agriculture, and, therefore, exempt under IRC 501(c)(5). See Rev. Rul. 56-245, 1956-1 C.B. 204.

7.25.5.5 (05-21-2014)

Political and Lobbying Activities

1. An organization that otherwise qualifies for exemption under IRC 501(c)(5) will not be disqualified merely because it engages in some political activity, provided that such political activity does not constitute the organization's primary activity.
2. An organization described in IRC 501(c)(5) may also engage in lobbying that is germane to the accomplishment of its exempt purposes without placing its exemption in jeopardy.
3. Even though labor, agricultural, or horticultural organizations may engage in some political activities and germane lobbying activities without adversely affecting their exemption under IRC 501(c)(5), they should be aware of the provisions of IRC 162(e) and IRC 6033(e) and the regulations there under as they pertain to the deductibility of dues by members when the organization makes expenditures for such activities and the organization's corresponding reporting requirements. See IRM 7.27.12 for discussion of these topics.
4. IRC 527(f) imposes a tax on expenditures for an exempt function, as defined in IRC 527(e)(2) (e.g., political expenditures), made by an organization exempt under IRC 501(c), whether directly or through another organization. IRC 527(f)(3) permits an exempt IRC 501(c) organization to undertake its political activities through a separate segregated fund, which would then be subject to IRC 527. See IRM 7.27.11 for discussion of IRC 527 and its application to organizations described in IRC 501(c).

7.25.5.6 (05-21-2014)

Unrelated Business Taxable Income

1. Organizations described in IRC 501(c)(5) are taxable upon their unrelated business taxable income. Reg. 1.501(c)(5)-1(c). See IRM 7.27.4 for discussion of tax on unrelated business income.

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