[Exemptions]

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

26 U.S. Code § 501 (c)(25)

501(c)(25) — Title Holding Corporations or Trusts with Multiple Parents

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Part 7. Rulings and Agreements

Chapter 25. Exempt Organizations Determinations Manual

Section 21. Multiple Parent Title Holding Companies

7.25.21 Multiple Parent Title Holding Companies

7.25.21.1 (06-01-2001)
Overview

1. This discusses the operation of Multiple Parent Title Holding Companies under IRC 501(c)(25).
2. IRC 501(c)(25) was enacted into law in the Tax Reform Act of 1986 (Pub. Law 99–514), effective for taxable years beginning after December 31, 1986. It was specifically designed to provide for exemption for title holding organizations with up to 35 shareholders or beneficiaries. Holdings are limited to interests in real property.
3. The Service had denied IRC 501(c)(2) status on a number of occasions where multiple parents controlled the entity. The Service position is that IRC 501(c)(2) status was not intended to allow exemption for organizations similar to regulated investment companies, mutual funds, or real estate investment trusts.
4. In enacting IRC 501(c)(25), Congress allowed pension trusts and certain exempt organizations wider latitude than is available under IRC 501(c)(2) to pool their resources in their real property investments. As an additional advantage to IRC 501(c)(25) status, certain shareholders or beneficiaries are not subject to unrelated debt-financed income taxation under IRC 514 on their investments through the organization.

7.25.21.2 (11-28-1997)
Exemption Requirements

1. IRC 501(c)(25) requires that an organization must have the following attributes in order to qualify for exemption.
   - A. Be organized for the exclusive purposes of acquiring real property and holding title to, and collecting income from, such property, and remitting the entire amount of income from such property (less expenses) to its shareholders or beneficiaries described in (e) below.
   - B. Be a corporation with no more than 35 shareholders or a trust with no more than 35 beneficiaries.
   - C. Each shareholder or beneficiary may have only one class of stock or beneficial interest.
   - D. Notice 88–121 also provides that an IRC 501(c)(25) organization may be organized as a nonstock corporation if its articles of incorporation or bylaws provide members with the same rights as required by Notice 87–18.
   - E. Each shareholder or beneficiary must be (i) a qualified pension, profit sharing, or stock bonus plan that meets the requirements of IRC 401(a); (ii) a governmental plan (within the meaning of IRC 414(d); (iii) the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing, or (iv) any organization described in IRC 501(c)(3).
   - F. A corporation or trust must permit its shareholders or beneficiaries to dismiss the corporation’s or trust’s investment adviser, upon a majority vote of the shareholders or beneficiaries.
   - G. A corporation or trust must permit its shareholders or beneficiaries to terminate their interest in the corporation or trust by either, or both, of the following alternatives, as determined by the corporation or trust (i) by selling or exchanging their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in IRM 7.25.21.2(1)(e) above so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or (ii) by having their stock or interest redeemed by the corporation or trust after the shareholder or beneficiary has provided 90 days notice to such corporation or trust.
   - H. A corporation or trust must not derive more than 15 percent of the total rent for the taxable year from rent attributable to personal property which is leased under or in connection with a lease of real property.

I. A corporation or trust must not derive more than 10 percent of its gross income from otherwise disqualifying income which is incidentally derived from the holding of real property. Examples of such income include revenues from vending machines and parking lots.

7.25.21.3 (11-28-1997)
Organizational Requirements

1. Notice 87–18, 1987–1 C.B. 455, requires that an IRC 501(c)(25) applicant's articles of incorporation or trust instrument include provisions that clearly demonstrate that the organization meets the requirements set forth in 25.2(1)(a)—(g).
2. Notice 88–121, 1988–2 C.B. 457, modifies Notice 87–18 by providing that if state law prevents a corporation from including in its articles of incorporation the provisions required by Notice 87–18, such provisions must instead be included in the bylaws of the corporation.

7.25.21.4 (11-28-1997)
Qualified Subsidiaries

1. When originally enacted in 1986, IRC 501(c)(25)(C) listed other IRC 501(c)(25) organizations as permissible shareholders or beneficiaries. However, this provision was repealed in 1988 by Pub. Law 100–647 because there was concern that tiering arrangements of IRC 501(c)(25) organizations might be used that would effectively nullify the 35-member limitation.
2. In lieu of this provision, IRC 501(c)(25)(E) was enacted in Pub. Law 100–649 to permit IRC 501(c)(25) organizations to have fully-owned subsidiary corporations, called "qualified subsidiaries" , that could hold some or all of the assets of the IRC 501(c)(25) organization.
   A. A qualified subsidiary is not treated as a separate corporation for tax purposes and, accordingly, the Service will not issue a letter to the subsidiary recognizing it as exempt.
   B. All assets, liabilities, and items of income of qualified subsidiaries are considered assets, liabilities, and items of income of the IRC 501(c)(25) organization, and must be included in the organization's annual returns.

7.25.21.5 (11-28-1997)
Permitted Holdings

1. In general, IRC 501(c)(25) organizations are limited by IRC 501(c)(25)(A) to real property holdings. The term "real property" , however, was not specifically defined in the statute when it was originally enacted in 1986.
   A. An amendment in the Technical and Miscellaneous Revenue Act of 1988 (Pub. Law 100–647), effective for property acquired by the organization after June 10, 1987 (other than property acquired pursuant to a binding contract in effect on that date), provides that for purposes of IRC 501(c)(25)(A), real property does not include any interest as a tenant-in-common or similar interest, or any indirect interest.
   B. Notice 88–121, provides further detail concerning what the term "real property" includes for purposes of IRC 501(c)(25). Under this Notice, an organization is not described in IRC 501(c)(25) if it is organized for purposes of holding interests in partnerships or real estate investment trusts or for purposes of making mortgage loans.

C. Personal property is considered to be within the definition of real property if it is leased under or in connection with a lease of real property and the rent attributable to the personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property under the lease. See IRC 501(c)(25)(F). If such income exceeds the 15 percent limitation, the personal property from which the income is derived will not be considered to be real property. Accordingly, the organization will not be considered to be organized for the exclusive purpose of holding title to real property and exempt status under IRC 501(c)(25) will not be recognized.

D. An IRC 501(c)(25) organization may acquire and hold options to purchase real property if the options are purchased in accordance with a plan to purchase the particular real estate involved and not for purposes of options trading.

E. Reasonable cash reserves may be held to meet operational requirements. Whether the amount and the time for holding cash reserves is reasonable will depend upon the facts and circumstances of each case. It will be considered reasonable, however, if initial subscriptions are held for less than one year before investment in real estate. Reserves must be held as cash or in short-term investments such as certificates of deposit, bankers' acceptances, interest-bearing savings accounts, commercial paper, government obligations, and shares in money market funds. However, an investment will not be considered short-term if the period to maturity is more than 91 days.

F. An IRC 501(c)(25) organization may hold the stock of a qualified subsidiary defined in IRC 501(c)(25)(E). However, because the assets of the qualified subsidiary are considered to be those of the IRC 501(c)(25) organization, the qualified subsidiary is limited to holding property that could be held directly by an IRC 501(c)(25) organization.

7.25.21.6 (11-28-1997)
Unrelated Business Income

1. In general, the receipt of unrelated business income by an IRC 501(c)(25) organization will subject the organization to loss of exempt status, since the organization cannot be exempt from taxation if it engages in any business other than that of holding title to real property and collecting income therefrom.

2. Exempt status will not be affected by the receipt of debt-financed income which is treated as unrelated business taxable income solely because of IRC 514. However, income derived from a business operation or the business of acquiring, improving, and selling real property or trading options, is income from unrelated trade or business and will result in the loss of exempt status.

3. Along with the provision in the Tax Reform Act of 1986 that created IRC 501(c)(25) organizations, a companion provision amended IRC 514(c)(9)(C) to list IRC 501(c)(25) organizations as qualified organizations. This had the effect of entitling all shareholders and beneficiaries, whether or not qualified organizations themselves, to an exception to unrelated debt-financed income taxation of real property held by the IRC 501(c)(25) organization. Thus, some organizations that otherwise would have been subject to unrelated debt-financed income taxation if they held the property directly could have avoided it through use of an IRC 501(c)(25) title-holding organization.

4. Congress scaled back this wide exemption from IRC 514 taxation in Pub. Law 100–647, effective for interests acquired in an IRC 501(c)(25) organization after June 10, 1987 (except for interests that are later acquired under a binding contract in effect on that date). As amended, IRC 514(c)(9) now provides that a "disqualified holder" of an interest in an IRC 501(c)(25) organization will take into account as gross income from an unrelated trade or business its pro rata share of income that would be treated as unrelated debt-financed income but for the application of IRC 514(c)(9).

   A. Disqualified holders are shareholders or beneficiaries of an IRC 501(c)(25) organization that are not qualified organizations described in IRC 514(c)(9)(C)(i) and (ii).
   B. Thus, for interests acquired after June 10, 1987, shareholders and beneficiaries are put in the same position with respect to holdings of an IRC 501(c)(25) organization that they would be in if they held the property directly.
5. Rent attributable to personal property leased under, or in connection with, a lease of real property will not be considered unrelated business income if such income does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease. If such rent does exceed the 15 percent limitation, the organization’s exempt status will be jeopardized.
6. Income derived from otherwise disqualifying income, which is incidentally derived from the holding of real property as described in IRC 501(c)(25)(G) is considered to be unrelated business income.
   A. Examples of such income include revenue from vending machines and parking lots.
   B. An organization will fail to qualify for exemption under IRC 501(c)(25) if such gross income exceeds 10 percent of the organization’s gross income for the taxable year.

7.25.21.7 (11-28-1997)
Application for Exemption

1. An organization seeking recognition of exemption under 501(c)(25) must file an application Form 1024.

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https://www.irs.gov/irm/part7/irm_07-025-021.html