



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Release Number: **201746028**
Release Date: 11/17/2017
UIL Code: 501.06-01
501.06-03

Date: August 24, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Dear _____ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(6) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Date: June 21, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date

C = State

D = Name

E = Region

F = Number

x dollars = Amount

y dollars = Amount

UIL:

501.06-01

501.06-03

Dear :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(6) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under Section 501(c)(6) of the Code? No, for the reasons stated below.

Facts

You formed on B in the State of C pursuant to its nonprofit statutes. The purposes in your Articles of Incorporation state you were formed as a trade association for D franchisees and to promote good fellowship, cooperation and mutual interest among members and to foster and advance the trade and commerce of the members; to encourage the exchange of ideas among the members for their common good and welfare; to disseminate information essential for members in the adequate conduct of their businesses; and to otherwise promote the best interests of D franchisees.

You are a membership organization open to current and former owners and sole representatives of D franchisees or licensees. All D franchise owners in the E are eligible for membership.

You have two classes of membership. There are the voting General members consisting of owners and the sole representative of an independent D franchise. These memberships are non-transferrable and will automatically terminate when the member is no longer an owner or shareholder of an independent D franchise. There is only

one vote per franchise. If an individual or a corporation owns more than one franchise, then they will have more than one vote.

The second class of members are composed of non-voting Associate members who are current or former D franchisees or licensees. The eligibility of becoming a member is determined by the current board of directors and two thirds must agree.

Your activities consist of providing assistance to members by conducting informational meetings, and educational workshops in areas such as specific required certifications for D franchisees to remain operational as well as providing timely updates and ongoing communication on current issues impacting your members . You also conduct trade shows with both current vendors of D franchises as well as new vendors who are trying to contract with D franchisees to carry their products.

You will be supported primarily through your trade shows in which vendors pay fees. In addition, you are supported through membership dues of x dollars per month per member product sales, and an annual golf outing.

You have F members on your governing body who be reimbursed for services rendered to manage your operations. The compensation for each listed on the Form 1024 is y dollars. The specific amount will be determined annually.

Law

Section 501(c)(6) of the Code provides exemption from federal income tax for business leagues not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(6)-1 defines a business league as an association having a common business interest, whose purpose is to promote the common business interest and not to engage in a regular business of a kind ordinarily carried on for profit. Its activities are directed to the improvement of business conditions of one or more lines of business rather than the performance of particular services for individual persons.

For exemption purposes, a line of business is a trade or occupation, entry into which is not restricted by a patent, trademark, or similar device which would allow private parties to restrict the right to engage in the business. A "segment" of a line of business is not considered a line of business under Section 501(c)(6) of the Code.

Revenue Ruling 55-444, 1955-2 C.B. 258, states that an organization formed to promote the business of a particular industry that carries out its purposes primarily by conducting a general advertising campaign to encourage the use of products and services of the industry as a whole is exempt from tax notwithstanding that such advertising to a minor extent constitutes the performance of particular services for its members.

Revenue Ruling 58-294, 1958-1 C.B. 244, holds that an association of licensed dealers in a certain type of patented product did not qualify as a business league. The association in this ruling owned the controlling interest in the corporation that held the basic patent of the product, it engaged mainly in furthering the business interests of its member dealers, and it did not benefit businesses that manufactured competing product of the same type covered by the patent.

Revenue Ruling 67-77, 1967-1 C.B. 138 also ruled that an association of dealers selling a particular make of automobile that engaged in financing general advertising campaigns to promote the sale of that particular make was not exempt because it was performing particular services for its members rather than promoting a line of business, i.e., the automotive industry as a whole. In this ruling, membership in the organization was restricted to dealers who held franchises for the sale of the automobiles designated in the area.

In Revenue Ruling 68-182, 1968-1 C.B. 263, the Service's position was stated that organizations promoting a single brand or product within a line of business do not qualify for exemption under section 501(c)(6) of the Code.

In National Muffler Dealers Association, Inc. v. United States, 440 U.S. 472, Ct. D. 1997, 1979-1 C.B. 198 (1979), the Court held that an organization of muffler dealers franchised by Midas International Corporation did not qualify for exemption from federal income tax as a business league under section 501(c)(6) of the Code. The organization's purpose was too narrow to satisfy the line of business test of section 1.501(c)(6)-1 of the regulations.

In Guide International Corporation v. United States, 948 F.2d 360 (7th Cir. 1991), the court concluded that an association of computer users did not qualify for exemption under IRC 501(c)(6) because it essentially benefited users of I.B.M. equipment.

Application of Law

You are not described in Section 501(c)(6) of the Code because you are not organized and operated as a business league but you are operated to perform particular services to your members.

You are not described in Treas. Reg. Section 1.501(c)(6) because your activities are directed to perform services for the benefit for the owners of a particular franchise business rather than to the improvement of business conditions of one or more lines of business.

You are not similar to the organization described in Revenue Ruling 55-444 because your activities are directed at only benefitting D franchisees and promoting their interests as well as the promotion of the D brand. Therefore, you are not improving the business conditions of an industry as a whole.

You are similar to the organizations described in Revenue Rulings 58-294, and 67-77, because you are engaged in furthering the business interests of D franchisees, which is a particular brand. This is illustrated by the fact your trade shows are only for vendors used by D franchisees and potential vendors of D franchisees, rather than the improvement of business conditions of one or more lines of business.

You are like the organizations described in Revenue Rulings 68-182 and 83-164, because your activities are exclusively directed for the interests and benefit of specific franchisees. Your workshops are tailored for the franchisees' specific needs to remain operational. Because you are only improving business conditions in a segment of line of a business, you are precluded from exemption under Section 501(c)(6) of the Code.

You are similar to the organizations described in National Muffler Dealers Association and Guide International Corporation v. United States, because your activities specifically serve members who must be particular

franchise owners. You provide assistance and services to particular franchisees which do not represent one or more line of businesses. Therefore, you are precluded from exemption under Section 501(c)(6) of the Code.

Conclusion

You do not meet Section 501(c)(6) of the Code. Your activities are directed toward a segment of line of a business because your members are limited to franchise owners of a particular brand. Your activities are not directed to the improvement of business conditions of one or more lines of business, rather they are providing particular services for your individual members. Accordingly, we conclude that you are not exempt under Section 501(c)(6) of the Code.

If you don't agree

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

For authorized representatives:

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, *Power of Attorney and Declaration of Representative*, with us if he or she hasn't already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*.

We'll review your protest statement and decide if you provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more

information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

Where to send your protest

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You can also fax your statement and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that he or she received it.

If you agree

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

You can find all forms and publications mentioned in this letter on our website at www.irs.gov/formspubs. If you have questions, you can contact the person listed at the top of this letter.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892