



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Number: **200845054**  
Release Date: 11/7/2008

Date: August 12, 2008

U.I.L.: 501.06-00

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

SE:T:EO:RA:T:2

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(6). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, 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 Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely yours,

Robert Choi  
Director, Exempt Organizations  
Rulings & Agreements

Enclosure  
Notice 437  
Redacted Proposed Adverse Determination Letter  
Redacted Final Adverse Determination Letter



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Date: June 2, 2008

U.I.L.: 501.06-00

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Legend:

A =

B =

Dear :

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code. Based on the information provided, we have concluded that you do not qualify for exemption under section 501(c)(6) of the Code. The basis for our conclusion is set forth below.

The information submitted indicates that you were incorporated on May 30, 2007, under the laws of the State of A when you E-Filed your Articles of Incorporation to the secretary of state. Your Articles state that your purposes "shall be solely educational and charitable and no part of the net earnings thereof shall inure to the benefit of any private individual." You did not submit a copy of your bylaws or any other document regarding your operating procedures.

In your application, you state that each of your potential members must be a franchisee of B, and that there are no different classes of membership. You state that your first and foremost activity, or eighty (80) percent of what you do, will be to advocate the needs, interests, and goals of your members as it relates to a cooperative relationship with your members' common franchisor. You state that this includes uniting franchisees, making it easier for your franchisor to hear one unified voice. Your secondary activity is to receive information from your franchisor and disseminate that information to your members.

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

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to

promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

Rev. Rul. 56-65, 1956-1 C.B. 199, holds that a local organization whose principal activity consists of furnishing particular information and specialized individual services to its individual members engaged in a particular industry, through publications and other means to effect economies in the operation of their individual businesses, is performing particular services for individual persons. Such organization, therefore, is not entitled to exemption under section 501(c)(6) of the Code as a business league even though it performs functions which are of benefit to the particular industry and the public generally.

Rev. Rul. 58-294, 1958-1 C.B. 244, discusses an organization that is organized and operated for the purpose of promoting uniform business, advertising, and fair trade practices in connection with the manufacture and sale of a certain patented product. Membership in the organization is limited to any person, firm, or corporation licensed to manufacture and sell the specified product. The organization owns the controlling interest in the corporation which holds the basic patents and sells to the members of the organization the materials and equipment necessary in the manufacture of the product. The revenue ruling holds that the organization does not qualify for exemption as an organization described in section 501(c)(6) of the Code because it is engaged in furthering the business interests of the dealers in the particular patented product.

Rev. Rul. 64-315, 1964-2 C.B. 147, holds that an association of merchants whose businesses constitute a shopping center, and which expends its funds and engages exclusively in advertising in various newspapers and on television and radio in order to attract customers to the shopping center is not entitled to exemption as an organization described in section 501(c)(6) of the Code. The organization's advertising contains the names of member merchants and their merchandise, and the publication of a shopping news, advertising in other publications and also by radio and television, by which means the organization advertises the merchandise and the names of its members merchants, shows this to be the primary purpose and activity of the organization. Such activity constitutes the performance of particular services for members rather than an activity directed to the improvement of business conditions generally as required by the applicable regulations.

Rev. Rul. 67-77, 1967-1 C.B. 138, holds that an organization composed of dealers in a certain make of automobile in a designated area is organized and operated for the primary purpose of financing general advertising campaigns to promote, with funds contributed by dealer members, the sale of that make of automobile, and is therefore not exempt under section 501(c)(6) of the Code since it is performing particular services for its members. The revenue ruling states that it relates to whether an organization which is organized and operated for the primary purpose of financing advertising campaigns to promote the sale of a particular make of automobile is entitled to exemption under section 501(c)(6).

Rev. Rul. 72-211, 1972-1 C.B. 150, clarifies Rev. Rul. 56-65, supra, and holds that an organization formed to promote the interests of its members and persons or firms related to the building and construction industry by providing a plan room and news bulletin available to the entire industry qualifies for exemption under section 501(c)(6) of the Code. The revenue ruling stresses that one of the main reasons for exemption is the fact that the organization's facilities are open for use by all individuals and businesses in the industry, nonmembers as well as members.

Rev. Rul. 73-411, 1973-2 C.B. 180, in discussing the exempt status of a shopping center merchants' association under section 501(c)(6) of the Code, describes in detail the history of section 501(c)(6) and the types of organizations described therein. In the case of a chamber of commerce or similar organization, the common business interest required under section 1.501(c)(6)-1 of the regulations is usually the general economic welfare of a community, and it has been accepted that an organization seeking exemption under section 501(c)(6) as a chamber of commerce must be one whose efforts are directed at promoting the common economic interests of all the commercial enterprises in a given trade community. The revenue ruling states that trade associations or business leagues under section 501(c)(6) are similar to chambers of commerce, except that they serve only the common business interests of the members of a single line of business or of the members of closely related lines of business within a single industry. The revenue ruling also stresses that membership in section 501(c)(6) organizations is voluntary and open generally to all businesses and professional persons in the community. The revenue ruling clarifies Rev. Rul. 64-315, supra, by stating that in no event should it be construed as implying that a merchant's association whose membership is restricted to the tenants of a one-owner shopping center and their common lessor, and whose activities are directed solely to promoting the general interests of its members, may be exempt under section 501(c)(6). Membership is voluntary and open generally to all business and professional men and women in the community. The revenue ruling states that it has been accepted that an organization seeking exemption from federal income tax under section 501(c)(6) as a chamber of commerce or board of trade must be one whose efforts are directed at promoting the common economic interest of all the commercial enterprises in a given trade community. The revenue ruling also defines trade associations or business leagues as similar to chambers of commerce or boards of trade, except that they serve only the common business interests of the members of a single line of business or of the members of closely related lines of business within a single industry.

In National Muffler Dealers Association, Inc. v. U.S., 440 U.S. 472 (1979), the Supreme Court held that an organization that promotes a single brand of muffler is not exempt under section 501(c)(6) of the Code because it does not promote a line of business as required in the regulations. In this case, the organization initially confined its membership to dealers franchised by Midas International Corporation (Midas) and its purpose was to establish a group to negotiate unitedly with Midas management. Despite the fact that the organization later amended its bylaws to eliminate its membership restriction, it neither recruited nor acquired a member who was not a Midas franchisee. The Court stated that "an organization with a primary objective other than to benefit an entire industry and with a purpose to promote and give a competitive advantage to one product or one segment of a business cannot satisfy the line of business test." The Court further concluded that exemption under section 501(c)(6) is not available to aid one group in competition with another within an industry. The Court noted that

exemption has been consistently denied by the Service to business groups whose membership and purposes are narrower than those that meet the "line of business" test in that they fail to benefit either an entire industry or all components of an industry within a geographic area. Examples of those denied exemption for failure to meet the "line of business" test include those that bottle a single brand of soft drink, market a single brand of automobile, or have licenses to a single patented product.

The information you have submitted shows that your membership is limited to franchisees of B. Because your membership is not open generally to all businesses and professional men and women in your community, you are not a chamber of commerce, as explained in Rev. Rul. 73-411, supra. Since you are structured along particular industry or business lines, your right to exemption under section 501(c)(6) of the Code, if any, must rest on your characterization as a trade association or business league. Your application indicates that your primary activity is to be an advocate for your members to B and to disseminate information from B to your members. By being an advocate for your members and providing them with information from B, you are promoting their common business interests, but at the expense of every other individual or organization engaged in the same line of business which are not your members or franchisees of B or engaged in the same line of business as B. Therefore, you are providing services and information only for and to a limited group of organizations within a particular business or line of business. As concluded by the Supreme Court in National Muffler Dealers Association, supra, exemption under section 501(c)(6) of the Code is not available for such organizations. As also discussed in Rev. Ruls. 56-65 and 72-211, both supra, exemption under section 501(c)(6) relies on the presentation of services and information to an entire line of business rather than just to a select few within, or a segment of, a line of business.

Even if you modified or abandoned your membership limitation, there is nothing in your application to show even an indication that you would either intend to or be able to recruit or acquire any member other than a franchisee of B.

For these reasons, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(6) of the Code. You are required to file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

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

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you

want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at [www.irs.gov](http://www.irs.gov), Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service  
TE/GE

1111 Constitution Ave, N.W.  
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Robert Choi  
Director, Exempt Organizations  
Rulings & Agreements