



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920DAL
Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Number: **202052025**
Release Date: 12/24/2020
UIL: 501-06.00

Date: April 16, 2020
Taxpayer ID Number:
Form:
For Tax Period(s) Ending:
Person to Contact:
Identification Number:
Telephone Number:
Fax Number:

CERTIFIED MAIL – Return Receipt Requested
LAST DAY FOR FILING A PETITION WITH THE TAX COURT:

Dear _____ :

This is a final determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(6) for the tax period(s) above. Your determination letter dated February 13, 20XX is revoked.

Our adverse determination as to your exempt status was made for the following reasons:

You have not established that you are organized and operated exclusively for an exempt purpose within the meaning of IRC Section 501(c)(6). You have not established that you are an association of persons having common 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.

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of IRC Section 7428 in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the

District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

U.S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

U. S. District Court for the District of
Columbia 333 Constitution Ave., NW
Washington, DC 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under IRC Section 7428.

You may be eligible for help from the Taxpayer Advocate Service (TAS). TAS is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 1-877-777-4778.

Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

You can get any of the forms or publications mentioned in this letter by calling 800-TAX-FORM (800-829-3676) or visiting our website at www.irs.gov/forms-pubs.

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.

Sincerely,

Enclosures:
Publication 892



Maria D. Hooke
Director, EO Examinations



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations Examination

Date:
08/23/2018
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Employee ID number:
Telephone number:
Fax:
Address:

Manager's contact
information:

Employee ID number:
Telephone number:
Response due date:

CERTIFIED MAIL – Return Receipt Requested

Dear _____ :

Why you're receiving this letter

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(6) for the periods above.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

Additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,

Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:

Form 886-A

Form 886-A Attachments (A through C)

Form 6018

Publication 892

Publication 3498

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit:
Name of Taxpayer		Year/Period Ended December 31, 20XX

Issues:

- Whether (“organization”) Internal Revenue Code (“IRC”) Section (“Sec.”) 501(c)(6) exempt status should be revoked because it’s an association of marketers of the branded products of a particular corporation.

Facts:

(“organization”) name is an acronym for

. Per testimony, the organization initially was a for-profit business which started around 19XX. In 20XX, the organization expanded, solicited membership and operating committees, and applied for exemption. The testimony coincides with Form 1024, *Application for Recognition of Exemption Under Section 501(a)*, and Letter 948 (“Letter 948”), *Determination Letter Recognizing Exemption Under IRC 501(a), other than IRC 501(c)(3)*. Per Letter 948, the organization was recognized as an exempt organization under Internal Revenue Code (“IRC”) Section (“Sec.”) 501(c)(6) as a business league on February 13, 20XX. The effective date of exemption was December 4, 20XX.

Per the bylaws, the organization is organized for the following:

- “A. To promote the interest of its members engaged in the sale and distribution of
- B. To foster trade and commerce among and in the interests of those engaged therein
- C. To promote and encourage beneficial and friendly relations among those engaged in the supply, distribution and sale of said products;
- D. To acquire and distribute amount its members information and statistics pertaining to the industry in general, and to keep the consumer informed and advised as to the purchase and economical and efficient use thereof;
- E. To represent the as such before government agencies and other regulatory bodies having to do with the business of its members;

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- F. To do any and all proper things for the advancement of the legitimate interests and general welfare of its members;
- G. And to promote and foster a high standard of business ethics, friendly cooperation, good will and sociability among its members.”

Per testimony provided on February 28, 20XX (“testimony”), by the Executive Director (“ ”), organization has main regions: . The organization has multiple committees that formulate issues, meet with the supplier (at the source), and communicate the concerns and/or information affecting marketers. Per , the organization worked on behalf of its members to address issues with various

Per Attachment A, page 2, under the title “Our Mission,” the organization states that its mission is to “help [their] members grow and prosper in a challenging and rapidly changing marketplace.” Records also show that the organization’s objective is said to be an association that meets with suppliers to discuss issues and come up with mutual beneficial solutions.

Per records, the organization hosts a forum every other year. The organization gets forum attendants through its membership, email blasts to potential members, and networking. The organization also invites people in person when possible. At its forums, the organization provides information to the marketers via presentation from the organization and keynote speakers, among other sources. Per the organization, the forum is a place where people can attend, learn, and take back something of value to their business. Per , forums are open to both members and non-members.

In the year ending December 31, 20XX (“20XX”), organization’s activities included publishing a newsletter and holding conferences to promote the member interest and educate members, among other things. Attachment A, page 3 through 26, is the organization’s newsletter for December 20XX. Per Attachment A, contents of the newsletter included (but weren’t limited to) the following:

- A letter from the organization’s President (“ ”) stating (in part and paraphrased):

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- The organization's 20XX focus is on increasing its membership
- During the October 20, 20XX committee meeting, the organization provided "an opportunity to hear how was going to lay out their plans for the future and how they were going to move the business forward."
- The forum is focused "current and future issues affecting the relationship between and marketers."
- A letter from stating (in part and paraphrased):
 - That hopes that "20XX has proven to be a successful year for [member's] business."
- Information regarding point-of-sale ("POS") upgrade.
- advertisements
- Information about a group called the " "
- Content explaining the "Cost of Credit" and how " and commercial cards can make for [members]"
- Summary of the October 20, 20XX committee meeting, which includes (but isn't limited to) information on the following:
 - Analysis specific to
 - retail
 - relationship with the
 - moving forward
 - credit card
 - incentive payment process
- Summary explaining why uses
- Information about the organization's officers

In 20XX, the organization generated most of its income through membership dues, a business forum (which is held every 2 years), sponsorships, and advertisements (in the organization's magazine). As for expenses, the largest expenses were attributed to compensation

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(e.g.: consultant fees to _____), travel and conference expenses, the newsletter, and accounting.

Members were made up of different classes. Per Attachment B, page 10, under “[_____]” the organization describes: _____ (one of the organization’s membership classes) as [paraphrased]: having a voice that carries weight for the _____ and marketer business.

In its “Why Join?” link, as shown within Attachment B, page 8, under the title “_____,” the organization states (in part):

- That members should join because “[_____ has developed a strong working relationship with _____ management and has accomplished several changes on behalf of all marketers.”
- Members benefits include having a “collective voice for communicating business issues and opportunities from a marketer’s perspective to _____ management.”

Regarding the _____ (another one of the organization’s membership classes), the organization describes associate members as [paraphrased]: having an exclusive opportunity to access and market directly to _____ and _____ branded marketers. The organization also states that the said access and marketing is a valuable business development tool for the member’s companies. This is supported within Attachment B, page 10, under “_____”

Per Attachment B, page 8, under the title “Marketer Database,” the organization states that “_____ have exclusive access to our database of retail and commercial marketers. With over _____ contacts, there are plenty of prospects for your marketing and sales development activities.”

Before changing their website, the first bullet under the title “To Fulfill Our Mission We Will,” previously stated that the organization “[w]ork[s] to profitably grow

_____”. This statement is also reflected on Attachment A, page 2, under the title “To

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Fulfill Our Mission We Will". Per testimony and Attachment A, page 2, under the title "Membership", paragraph 1, the organization's membership is said to be:

"[C]omprised of both [redacted] While [redacted] members are independent distributors of [redacted] supplier products, all [redacted] are affiliated by contract with the [redacted] Products Company. Collectively they represent the majority of [redacted] and [redacted] sold throughout the distributor channel in the United States."

Per the "Our Membership" section in Attachment C, the organization also describes its membership as follows:

" [redacted] membership is comprised of over 0 [redacted] and [redacted] Marketers are independent distributors of [redacted] and [redacted] branded products affiliated by contract with the [redacted] Products Company. They collectively represent more than 0% of all [redacted] sold through the distributor channel in the United States.

[redacted] are suppliers of [redacted] products and services to [redacted] marketers and [redacted] Products Company. [redacted] can communicate directly through [redacted] annual advertising program. A complete listing of [redacted] with contact information and products/services offered is provided in an annual directory."

Per Attachment C, under the title "Organizational Structure", the organization states (in part) the following:

"The board of directors is made up of [redacted] from [redacted] around the country representing the [redacted] and [redacted] brands. An Executive Committee, comprised of the association's officers, is elected annually by a vote of the full board. Each board member also serves on one of [redacted] operating committees.

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An Executive Director who conducts the day-to-day business of _____ supports the board. The Executive Director meets with the board at least twice a year. The full board including its operating committees also meets regularly with _____ management to engage in discussions on issues to promote the success of the _____ and _____ brands within the marketer channel of trade.”

Per _____, the organization only shares research information with a distribution list and members. Per Attachment C, under the title “Communications”, the organization states that it makes quarterly newsletters, meeting minutes, and other information available through the membership website. It also states that the organization “conducts periodic membership surveys to identify areas of concern and interest to marketers. This information provides valuable input to the board and helps focus the association’s discussions with our supplier.”

Law:

Internal Revenue Code (“IRC”) Section (“Sec.”)

IRC Sec. 501(c)(6) describes organizations exempt from federal income tax under IRC Sec. 501(a) that are business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulations (“Treas. Reg.”)

Treas. Reg. Sec. 1.501(c)(6)-1 provides 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. Its activities should be directed to the improvement of business conditions of a one or more lines of business as distinguished from the performance of particular services for individual persons.

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Revenue Ruling ("Rev. Rul.")

In Rev. Rul. 59-391, 1959-2 C.B. 151, exemption under 501(c)(6) was denied to an organization composed of individuals, firms, associations, and corporations, each representing a different trade, business, occupation, or profession. The organization was created for the purpose of exchanging information on business prospects and had no common business interest other than a desire to increase sales of members. The revenue ruling found that the organization's activities were not directed to the improvement of business conditions of one or more lines of business, but rather to the promotion of the private interests of its members.

Rev. Rul. 68-182, 1968-1 CB 263 states an organization which promoted a single brand within a line of business will not qualify for exemption from federal income tax under section 501(c)(6) of the Code.

Tax Court Case

In Associated Master Barbers & Beauticians v. Commissioner, 69 TC 53, 63 (1977), the court noted that the statute and regulations establish a series of requirements that an organization must meet to be described in IRC Sec. 501(c)(6). It stated the requirements as follows:

1. It must be an association of persons having a common business interest,
2. Its purpose must be to promote that common business interest,
3. It must not be organized for profit,
4. It should not be engaged in a regular business of a kind ordinarily conducted for a profit,
5. Its activities should be directed toward the improvement of business conditions of one or more lines of business as opposed to the performance of particular services for individual persons, and
6. Its net earnings, if any, must not inure to the benefit of any private shareholder or individual.

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If an organization fails to meet any one of these standards, it cannot be recognized as exempt or maintain its exemption under IRC Sec. 501(c)(6).

In Association, Inc. v. United States, 440 U.S. 472, 99 S. Ct. 1304, 59 L. Ed. 2d 519 (1979), 1979-1 CB. 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.

Taxpayer's Position:

The Taxpayer's position is unknown at this time.

Government's Position:

1. Whether ("organization") Internal Revenue Code ("IRC") Section ("Sec.") 501(c)(6) exempt status should be revoked because it's an association of marketers of the branded products of a particular corporation.

It's the government's position that the organization doesn't qualify for exemption under IRC Sec. 501(c)(6) and should be revoked.

Under IRC Sec. 501(c)(6) to be exempt, a business league can't be organized for profit and no part of the net earnings can inure to the benefit of any private shareholder or individual. Per Treas. Reg. Sec. 1.501(c)(6)-1 a business league is an association of persons having common business interest, to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. Its activities should: improvement of business conditions of one or more lines of business as distinguished from the performance of services for individual persons. In Rev. Rul. 59-391, exemption

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under 501(c)(6) was denied to an organization composed of individuals, firms, associations, and corporations, each representing a different trade, business, occupation, or profession. The organization was created for exchanging information on business prospects and had no common business interest other than a desire to increase sales of members. The activities weren't directed to business condition improvements, but rather to the promotion of the private interests of its members. Rev. Rul. 68-182, states an organization which promoted a single brand within a line of business will not qualify for exemption from federal income tax under IRC Sec. 501(c)(6). Per *Associated Master Barbers & Beauticians v. Commissioner*, to be described in IRC Sec. 501(c)(6), an organization must meet multiple requirements. Requirements include (but aren't limited to): being an association of persons having a common business interest, must not be organized for profit, and shouldn't be engaged in a regular business for a profit. If an organization fails to meet any one of these standards, it cannot be recognized as exempt or maintain its exemption under IRC Sec. 501(c)(6). In *Association, Inc. v. United States*, the court held that the Corporation didn't qualify for exemption because the organization's purpose was too narrow.

Here, the organization clearly focuses on making profit, managing a relationship with the brands and , as well as, serving the private benefit of members. This is supported throughout the records provided. Examples include (but aren't limited to) the organization's: bylaws, mission statement, activities, memberships, and meetings.

Per the bylaws, the organization [paraphrased]:

- Promotes the interest of its members engaged in sale and distribution of related products specific to the
- Fosters trade and commerce
- Promotes and encourages beneficial relations
- Advances the interest of its members

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In stating its mission statement (which is to “help [their] members grow and prosper”), the organization shows that it serves the private interest of its members. As explained within _____ and _____, an organization must meet all tests laid out by the court to qualify as exempt under IRC Sec. 501(c)(6). One of these tests is that the organization must be directed to improving the business conditions of one or more lines of business as opposed to the performance of particular services for individuals. In reviewing the organization’s bylaws and mission, it’s the government’s position that the organization fails both elements of this test.

Per records provided, the newsletter shows that most of its activities revolve around _____ and _____ products, direction in business, and philosophy, among other things.

When explaining why members should join, the organization implies a profit motive and explains how being a member privately serves to the benefit of the members.

- “ _____ has developed a strong working relationship with _____ management and has accomplished several changes on behalf of all marketers.”
- Members have a “collective voice for communicating business issues and opportunities from a marketer’s perspective to _____ management.”
- _____ have “an exclusive opportunity to access and market directly to _____ and _____ branded marketers.”
- “ _____ have exclusive access to [the organization’s] database of retail and commercial marketers. With over _____ contacts, there are plenty of prospects for [member’s] marketing and sales development activities.”

Regarding its members, the organization states that “all _____ are affiliated by contract with the _____.” As well as that members collectively “represent the majority of _____ and _____ sold throughout the distributor channel in the United States.”

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Given the information above, it's the government's position that the organization operates to improve the business of its members who are all marketers of _____ and _____. Like the organization described in Revenue Ruling ("Rev. Rul.") Sec. 68-182, the organization's members are only marketers of the _____ and _____, and _____ represent only a section of the line of business that the _____ and _____ are part of. In _____, the court approved of the Commissioner's interpretation of the statute that denies exemption under section 501(c)(6) to organizations that are devoted to the promotion of particular product at the expense of others in the industry.

Since the beneficial activities carried out by the organization are directed to its members that are marketers of _____ and _____, they can't be directed to the improvement of the conditions in an entire line of business. They are, through the restriction of the membership, directed to the segment of the industry represented by _____ and _____.

In addition, the organization is similar to the organization in the _____ case (which didn't qualify for exemption under IRC Sec. 501(c)(6)), because it's set up to help its members effectively compete against other marketers of different brands of the same products. The case provides an extensive review of the history of the definition of business league since this IRC Sec. was first included.

IRC Sec. 501(c)(6) allows for associate members who share a common business interest with the voting members of the organization. For example, students about to enter a profession have a clear common business interest with the professionals who are already in that business.

The _____ of the organization are businesses that provide goods and services to the members. They're included in an annual directory that is available to members. They may be exhibitors at tradeshow which allows them to interact with potential customers. They also receive access to a database of the marketer members to use to develop new business.

These activities are similar to the overall activities of the organization described in Rev Rul 59-391. In that organization, all the members were parts of different lines of business and there is no indication that the associate members of the organization have to

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be in different lines of business. However, their only connection to each other is that they provide or wish to make connections so to provide some good or service to the members of the organization and/or to influence and for their benefit. Thus, their only reason to join is to increase their sales to the members of the organization and/or to influence and for their benefit. As such, the organization also fails to meet IRC Sec. 501(c)(6) requirements by providing a particular service to its members. The organization's activities allow the members to come together to discuss issues related to their businesses. By promoting the efficiency of the marketers of and , these activities benefit and .

Per Attachment C, under the organization structure, the organization states that: "The full board meets regularly with management to engage in discussions on issues to promote the success of the and brands within the marketer channel of trade." The organization's activities above show that it also provides opportunities for the board and/or others to meet with executives at and with the intent to promote success of and . Thus, failing to promote the economic interest of a line or lines of business.

Therefore, given the information above, revocation of the organization's IRC Sec. 501(c)(6) exemption is warranted.

Conclusion:

The organization isn't qualified to be an exempt business league under IRC Sec. 501(c)(6) because it doesn't promote the economic interest of a line or lines of business, but rather promotes two brands of products within its line of business. Per records, the organization's goal is to help and compete against other brands within the general line of business, which also provides a particular service to and . An organization under IRC Sec. 501(c)(6) must benefit a line or lines of business and can't provide particular services to individual persons.

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The organization is also not qualified to be an exempt business league under IRC Sec. 501(c)(6) because its associate members don't share a business interest with its regular members. This is since their interest in being associate members is that it allows them to advertise to the members in publications and to sell to the members in a trade show and/or by using the member directory, among other things. Thus, revocation of exemption is warranted.