



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

July 28, 2004

Number: **200505024**

Release Date: 02/04/05

U.I.L. Numbers:

501-06-00

501.06-01

Employer Identification Number: ****

Dear -----:

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

You were incorporated in the state of **** on September 29, ~~1999~~. Your incorporators, who also served as your original board members and officers, were ****, ****, and ****. **** and ****, who are attorneys in the law firm of ****, also serve as your legal counsel. In a letter dated May 25, 2001, you stated that you had expanded your board to include the following individuals: ****, ****, and ****. In a letter dated August 1, 2003, in response to our request for resumes for your officers and directors, you stated that you did not have resumes for your three officers and board members. In the letter, you furnished background information regarding ****, ****, and ****.

You state that you are a business league. Your Articles identify the purposes for which you have been formed as being:

1. To assist charitable organizations including veterans posts, fraternal clubs, social and service organizations and benevolent, humanitarian and civic organizations in their operation as non-profit charitable organizations;
2. To provide information assisting the clubs in undertaking and interpreting the laws of the State of **** including but not limited to ****, ****, and **** and understanding laws concerning liquor, tax, charitable solicitation and trust and other legal matters;
3. To assist members of **** in providing knowledge in the operation of the canteens, lounges, social rooms and rental halls and to assist members in applications for liquor licenses and transfers, bingo licenses, and charitable registration;
4. To provide knowledge of ****Code Chapters ****, **** and ****;

5. To encourage legislation, ordinances and regulations which would benefit its members and oppose any legislation prejudicial to its members; and,
6. To promote harmony and understanding between and among member organizations.

In a letter dated June 14, 2001, you state that your members are mostly tax-exempt organizations described in sections (c)(4), (8), (10) or (19) of the Code. In a letter dated August 1, 2003, you furnished a list of your members, whom you identify as mostly being fraternal organizations and veterans organizations exempt from federal tax under sections 501(c)(8), (10) or (19) of the Code.

In your application, you state that you receive your support from membership fees and donations. Your Code of Regulations sets the dues at \$**** per year with membership renewable on a yearly basis. In your letter dated June 14, 2001, you state that your income is solely from dues paid by your members, with initial membership dues of \$**** per organization and annual renewal fees of \$****. You further state that some members paid more than \$**** because of their commitment to you. In a letter dated August 1, 2003, you state that none of the members has paid more than the required membership fee.

In your application, you state that 50% of your time and resources will be allocated to organizing veteran and fraternal organizations into a business league. As you become fully organized, the time spent on this activity will be reduced. The remainder of your time and resources are to be allocated to providing information and guidance relating to **** Code Chapters ****, ****, **** and ****. Your officers will conduct this activity. You expect that the time spent on this will increase as your membership increases. Your plans include sending monthly newsletters.

In your letter dated June 14, 2001, you state that since you have become more fully organized, approximately sixty percent of your activities occur at your meetings. Meetings are held once or twice a month in different counties in **** on the premises of member organizations. It is your intent to continue with this practice.

Ten percent of your activities pertain to organizational activities, which you explain will decrease in coming years. Another ten percent of your activities are administrative; e.g., state and federal filings, recordkeeping, financial, etc.

Twenty percent of your activities involve the production of newsletters that are furnished to your members and answering phone calls, faxes and letters from members. You state that virtually every member has had questions relating to state liquor and charitable gambling laws. You further state that you provide application forms and answers to any questions to members upon request. The communications from your members pertain to the day-to-day operation of their organizations. The communications involve matters such as the operation of canteens, dining rooms, hospitality rooms, rental halls and applications for liquor and bingo licenses. You state that most of the information you provide in your meetings is furnished piecemeal to members through these means.

You state that it is your hope to promote harmony and understanding between and among your member organizations. You explain the need to make member organizations aware that

legislation may be proposed which may affect more than one type of organization. You refer to strength in numbers and the ability of organizations to work together in a particular municipality or county to promote or block legislation.

You state that to date you have not performed any lobbying activities. You further state that it is your intention to have your members send letters or make phone calls when legislation is proposed that you may support or oppose. Time will be spent only for identifying legislation that may affect your members, whom you will notify of the legislation through your newsletters or special mailings. You estimate that less than 5% of your total staff time will be spent carrying out this activity and no money has been appropriated or will be appropriated for the activities.

Your meetings are conducted without charge to members and are held in one of the members' club or lodge. The meetings are not advertised and nonmembers are made aware of them by word of mouth by members. Nonmembers may attend the meetings if asked by members or their attendance may be used as a recruiting tool.

You state that the meetings have been held so that your members can appear with their officers and employees to ask questions and receive information. You state that many liquor licenses are not renewed because of a failure by the operator to pay the taxes timely or in the correct amount. You further state that it is very important that members not be charged with violations since it is possible that their licenses could be revoked for certain violations. You state that you provide information and assistance to member veterans and fraternal organizations in connection with bingo licenses so that the forms can be completed in a more efficient manner. At the meetings you distribute sections of the **** Code related to the distribution and sale of alcohol. You provide members with forms related to liquor and bingo laws, along with instructions for completing them. You send them reminders of the annual renewal requirement for bingo licenses. In addition, you provide them with information on state taxes such as sales taxes and withholding taxes. You also provide them with information on charitable solicitation, and you furnish copies of relevant forms, information and phone numbers. You provide your members with information on transferring licenses (e.g., liquor licenses, bingo licenses, health, food, vendors, etc.), and you assist them in the application process for new licenses. You state that no information is provided to the business community, only to members and guests at the meetings.

You submitted copies of the newsletters that you provide without charge to members. A column called **** written by **** and ****, a list of **** Violations committed by veterans and fraternal organizations, and your membership lists are regular features. The newsletters' contents have included:

<u>Newsletter Date</u>	<u>Contents</u>
****	Article regarding investigations by the attorney general of illegal gambling by charitable organizations. Update on pending legislation. **** discussion of how organizations are to conduct themselves during investigations by the **** into gambling violations, and actions to take to reduce penalty assessments.

Newsletter Date	Contents
****	<p>Notice of **** and **** meetings for member clubs in various counties.</p> <p>****: discussion of the use evidence obtained by the **** during searches for records and the effect on penalties assessed.</p> <p>Article on investigations by the Attorney General's Office: a discussion of subpoena authority and information regarding organizations with advice regarding tip ticket vendors not keeping records of the amount of tip tickets sold to the organizations.</p>
****	<p>Legislative update on attempts to legalize some type of gambling for veterans and fraternal organizations.</p> <p>Information on legislative contacts to make it possible for 501(c)(4), (8), (10) and (19) organizations to be able to legally gamble as in the case of 501(c)(3) organizations.</p> <p>Article on bingo information for veteran and fraternal organizations and the illegal sale of tip tickets. Members are advised to call you on the matter.</p> <p>****: discussion of how to create a new and clean record.</p> <p>Notice of reduced legal fees by **** for members in administrative cases before the ****.</p>
****	<p>Election update regarding member organizations being permitted to conduct charitable gaming as in the case of 501(c)(3) organizations.</p> <p>An article on the Sunday sale of beer, wine and liquor and permit and licensing requirements.</p> <p>****: discussion of the regulation of hours during which alcoholic beverages can be sold to and consumed by patrons, permit holders and employees on permit premises.</p>
****	<p>Notice of reduction of fees by **** and **** to member organizations for administrative cases before the ****.</p> <p>Organizational Update.</p> <p>****: discussion of the payment of music license fees by veterans, fraternal and social clubs.</p>
****	<p>Article on the legal requirements for the expansion of club premises with instructions to contact you if there are any questions.</p> <p>****: discussion of legal requirements for temporary permits for serving liquor at special events.</p>
****	<p>Article on the ****.</p> <p>****: discussion of legal requirements related to the closing of businesses by permit holders for certain occurrences.</p>
****	<p>Article entitled ****.</p> <p>****: discussion of the defense of entrapment for sting operations involving underage drinkers.</p>

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.

In Produce Exchange Stock Clearing Association v. Helvering, 71 F.2d 142 (2nd Cir. 1934), the court held that there was no reason apparent for granting exemption as an association to a business league which served each member as a convenience or economy in his business. The court found that nothing was being done by the organization to advance the interests of the community or to improve the standards or conditions of a particular trade, and that the purpose of the organization was to provide a business economy or convenience for individual traders. In denying the exemption under section 103 of the Revenue Act of 1928 (predecessor statute to section 501(c)(6) of the Code), the court explained that merely serving as a convenience to members is not a characteristic shared by the entities listed in the statute.

In Commissioner v. Chicago Graphic Arts Federation, Inc. 128 F.2d 424 (7th Cir. 1942), the court held that to come within the exemption under section 103 of the revenue Act of 1928 (predecessor statute to section 501(c)(6) of the Code), an organization's activities must be directed to the improvement of business conditions or to the promotion of the general objects of one or more lines of business as distinguished from the performance of particular services for individual persons.

Associated Industries of Cleveland v. C. I. R., 7 T.C. 1449 (1946), holds that the term 'business' is very comprehensive and embraces everything about which a person can be employed.

In American Plywood Association v. U.S., 267 F.Supp. 830 (W.D. Wash. 1967), the term 'line of business' is interpreted to mean either an entire industry or all components of an industry within a geography area.

National Muffler Dealers Association, Inc. v. U. S., 440 U.S. 472 (1979), holds that the term "line of business" is interpreted to mean either an entire industry or all components of an industry within a geographic area. The Court explained that the history of section 1.501(c)(6)-1 of the regulations and its "line of business" requirement supported a determination that an organization that was not tied to a particular community and is not industry-wide should not be exempt under section 501(c)(6) of the Code.

In MIB, Inc. v. Commissioner of Internal Revenue Service, 734 F.2d 71 (1st Cir. 1984), in denying exemption as a business league to an organization whose activities consisted of providing particular services to its members in the form of transmitting information that would be used in decisions affecting their business operations, the court held that the ultimate inquiry was whether the association's activities advanced the members' interests generally by virtue of their membership in the industry, or whether they assist members in the pursuit of their individual businesses. The fact that there may have been indirect and intangible benefits for the industry as

a whole did not change the fact that the organization's services were in form and substance "particular services" for the members.

Rev. Rul. 56-65, 1956 C.B. 199, holds that an organization whose principal activity consists of furnishing particular information and specialized individual service to its individual members, through publications and other means to effect economies in the operation of their businesses, is performing particular services for them.

Rev. Rul. 59-391, 1959-2 C.B. 159, holds that an organization whose membership is so restricted that each member represents a different trade, business, occupation, or profession does not qualify for exemption under section 501(c)(6) of the Code. This Revenue Ruling stresses that the members of such an organization have no common business interest other than a mutual desire to increase their individual sales and that the activities of such an organization are not directed to the improvement of business conditions of one or more lines of business. It notes particularly that the membership characteristics of such an organization also preclude its classification as a local board of trade or chamber of commerce, observing in that respect that 'such organizations do not limit their membership in the manner employed in the instant case'.

Rev. Rul. 66-338, 1966-2 C.B. 226, held not exempt under section 501(c)(6) of the Code an organization whose principal activities included having representatives call on members to consult with them and advise them on their individual business problems. The activities provided members of the organization with an economy and convenience in the conduct of their individual businesses, and therefore constituted the performance of particular services for individual persons as distinguished from activities aimed at the improvement of business conditions in their trade as a whole.

Rev. Rul. 68-182, 1968-1 C.B. 263, describes a business league as 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 one or more lines of business as distinguished from the performance of particular services for individual persons.

Rev. Rul. 73-411, 1973-2, C.B. 180, clarifying Rev. Rul. 64-315, 1964 C.B. 147, holds that in the case of a chamber of commerce or similar organization, membership must be voluntary and open generally to all business and professional men in the community. Trade associations or business leagues are 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.

Section 501(c)(6) of the Code exempts from federal tax business leagues, chambers of commerce, real-estate boards, or boards of trade. Section 1.501(c)(6)-1 of the regulations defines a business league as an organization of the same general class as a chamber of commerce or board of trade. In order to be recognized as exempt under section 501(c)(6), an organization must not be organized for profit and no part of its net earnings is to inure to the benefit of any private shareholder or individual. Section 1.501(c)(6) of the regulations. You

identify yourself as a business league; however, you have failed to establish that you would qualify for exemption under section 501(c)(6) as either a business league or a chamber of commerce.

You have not shown that you possess the characteristics of a business league. Members of a business league share a common business interest, with the organization's purpose being to promote this common business interest. The organization's activities are directed towards improvement of business conditions of one or more lines of business represented rather than towards the performance of particular services for individuals. Section 1.501(c)(6)-1, supra. See, Commissioner v. Chicago Graphic Arts Federation, Inc., supra; Rev. Rul. 68-182, supra. Your membership, comprised of entities organized for different not-for-profit purposes, does not represent an industry and so does not constitute a line of business. See, Associated Industries of Cleveland, supra; American Plywood Association, supra; National Muffler Dealers Association, supra. The only shared interest held by your members is their involvement in certain revenue producing activities incidental to their nonprofit purposes, and a desire to make the activities more profitable. This is not a shared common business interest within the meaning of section 501(c)(6) of the Code. Rev. Rul. 59-391, supra. The activities that you conduct are intended to promote the interests of your members rather than the interests of a line of business.

A chamber of commerce is open to all businesses within a community. Rev. Rul. 73-411, supra; Rev. Rul. 59-391, supra. While you indicate that your membership is open to tax-exempt entities, you engage in activities which are conducted in such a manner that your membership is effectively restricted to those tax-exempt entities with interests related to the production of income through means such as the operation of canteens, lounges, social rooms and rental halls and conducting bingo games. The composition of your membership, which has shifted from being mostly organizations exempt under sections 501(c)(4), (8), (10) or (19) of the Code to being mostly section 501(c)(8), (10) or (19) organizations, reflects the limited nature of the interests being served.

The activities in which you engage primarily serve as a convenience to your members in operating their businesses. Providing a convenience or an economy to members falls outside the scope of the exemption accorded by section 501(c)(6) of the Code. Section 1.501(c)(6)-1 of the regulations. See, Produce Exchange Stock Clearing Association, supra.

In MIB, Inc., supra, the question of whether an organization's transmitting information to its members constituted particular services was addressed by looking at whether the organization's activities advanced the members' interests by virtue of their membership in the industry or whether the activities assisted members in operating their individual businesses. As discussed above, your membership does not represent a line of business. The assistance that you render to your members is intended to advance their individual interests rather than the common business interest of any identifiable line of business.

Your members engage in revenue generating activities that are incidental to their exempt purposes. The legal services and much of the other assistance that you provide to your membership in support of these activities are comparable to those available from for-profit entities. You provide your members with forms needed to comply with statutory requirements;

assistance in completing the forms; advice on how to obtain expansion and activities permits; and, advice on handling music license fees. At your meetings, which are held at venues and publicized in a manner which limits access by nonmembers, you not only present general information to your members, but you also give their officers and employees the opportunity to individually seek advice from legal experts. You also provide your members with the opportunity to seek individual assistance from you by telephone or fax. Your newsletters contain subject matter ranging from how to pour beer to maximizing profit to providing legal advice regarding how to deal with investigations by the Attorney General's Office and recordkeeping tactics to avoid legal problems. In the **** section of your newsletter, you advise member organizations on subjects such as entrapment guidelines, legal requirements for obtaining permits, and creating a new and clean record under which to operate. Members are encouraged to contact you by telephone if they have any questions regarding the articles. These activities represent the type of particular services prohibited by section 1.501(c)(6)-1 of the regulations. See, Rev. Rul. 66-338, supra; Rev. Rul. 56-65, supra.

You have failed to establish that you have been organized and operated so as to advance the interests of a line of business rather than furnishing particular services to your members. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(6) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service

Washington, D.C. 20224

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

Sincerely,

Lois G. Lerner
Director, Exempt Organizations
Rulings & Agreements