

RUNNING FINAL - NO PROTEST FILED

INTERNAL REVENUE SERVICE  
District Director

Department of the Treasury 0-22-94

c/o McCaslin Industrial Park  
2 Cupania Circle  
Monterey Park, CA 91755  
Attn: Review Section

Date: OCT 22 1993

VIA CERTIFIED MAIL



Person to Contact: [REDACTED]  
Telephone Number: [REDACTED]  
In Reply Refer To: [REDACTED]  
Employer Identification Number: [REDACTED]  
Case Number: [REDACTED]

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code of 1986.

FACTS

The information submitted discloses that you were formed under a set of By-laws in the State of [REDACTED] for nonprofit purposes on [REDACTED].

The purpose for which your organization was formed as stated in Article II of your By-laws is "to facilitate exchange of knowledge about [REDACTED] and about the [REDACTED] community in general. [To] provide a forum for the mutual exchange of information between [REDACTED] users and [REDACTED] and provide a local association to assist and coordinate the efforts of [REDACTED] users."

In the preamble to your By-laws you describe yourself as "an independent, non profit, educational organization of [REDACTED] system administrators, systems analysts, network support providers and consultants who wish to learn more about and share knowledge of [REDACTED] and related products. We welcome anyone who uses or wishes to know more about [REDACTED]. We are not affiliated with any vendors or companies other than [REDACTED]."

[REDACTED] is a computer network operating system owned and manufactured by [REDACTED] a for-profit company. You are an outgrowth of [REDACTED] of [REDACTED] and you function as a support group for [REDACTED] users. As such, your organization sponsors monthly meetings where a speaker discusses a

CODE	INITIATOR REVIEWER	REVIEWER EP/EO:TB;REV	REVIEWER EP/EO:TB	REVIEWER	REVIEWER	REVIEWER
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
SUN-NAME	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
DATE	10/21/93	10/21/93	10/22/93			

████████████████████  
subject dealing with ██████████ such as setting up the operating system, administrative procedures for local area networks, how to install software packages, and how to correct computer hardware problems. You also produce a quarterly newsletter with articles regarding ██████████. You maintain an association with ██████████ where you receive information and technical assistance from ██████████ sales persons and technical engineers.

You are a membership organization. Membership is obtained by completion of an application form and payment of dues. Two membership categories exist: individual and corporate.

Your organization's income is derived from individual and corporate membership dues and advertising revenue from your newsletter.

ISSUE

Does the organization qualify for exemption from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code?

LAW

Section 501(c)(6) of the Internal Revenue Code describes certain organizations exempt from income tax under section 501(a) and reads as follows:

"(6) Business leagues, chamber 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."

Section 1.501(c)(6)-1 of the Income Tax Regulations provides, in part, as follows:

"A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest. 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."

Revenue Ruling 74-147, 1974-1 C.B. 136 held that a nonprofit organization, whose members represent diversified businesses that own, rent, or lease digital computers produced by various manufacturers qualifies for exemption under section 501(c)(6) of the Code. In this case, the common business interest of the members is

their common business problem concerning the use of digital computers in general. The organization provided a forum for the exchange of information thereby improving the efficiency of members' use of computers.

Revenue Ruling 83-164, 1983-2 C.B. 95 on the other hand held that an organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer (referred to as the "M" corporation) does not qualify for exemption from Federal income tax as a business league under section 501(c)(6) of the Code. The organization holds conferences at which operational and technical problems relating to the M brand of computer are discussed. Representatives of M attend the conferences to disseminate current information relative to M's equipment. By directing its activities only to the users of M, it was ruled that the applicant organization is directing its activities towards the improvement of business conditions only in segments of the various lines of business to which its members belong. Because it limits its activities to the users of M computers, the organization helps to provide a competitive advantage to M and to its customers at the expense of M's competitors and their customers that may use other brands of computers.

In National Prime Users Group, Inc., v. U.S., (DC Md; 1987) 60 AFTR 2d 87-5564, the court found that a Corporation originally organized to facilitate communication among users of one manufacturer's computer equipment did not satisfy the "line of business" requirement and was not a tax exempt business league. The Articles of Incorporation and By-Laws as originally enacted conclusively established that the corporation was an organization serving only segments of one line of business, those using one manufacturer's product.

In National Muffler Dealers Association v. U.S., (1979) 43 AFTR 2d 779-828, the district court held that Midas muffler franchises do not constitute a "line of business" and that the petitioner was not a "business league" within the meaning of section 501(c)(6). The Court of Appeals affirmed, applying the maxim noscitur a sociis holding that the petitioner's purpose was too narrow to satisfy the "line of business" test of the Regulations. The Court held that the organization was not entitled to tax exemption as a "business league" within the meaning of section 501(c)(6) of the Code.

#### ANALYSIS AND CONCLUSION

In order to qualify for tax-exemption as a business league described in section 501(c)(6) of the Code, an organization's activities must be directed towards the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons.

[REDACTED]

The purpose of your organization is to act as a support group of [REDACTED], a particular brand of computer operating system. You disseminate information about [REDACTED] and related products to your members who are [REDACTED] users. As explained in Revenue Ruling 83-164 and in the National Prime Users Group court case, your organization does not serve to improve business conditions in one or more lines of business. You only serve to improve business conditions for those members of a line of business who use [REDACTED] products, primarily the [REDACTED] as opposed to improving business conditions for all users of computer operating systems.

The above cited Revenue Rulings and court cases holds that exemption is not available to aid one group in competition against another within an industry. The "group" so aided should not be limited to the organization's membership. Because your organization serves only users of [REDACTED] manufactured products, [REDACTED] has an unfair competitive advantage over its competitors.

We have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code.

Accordingly, you are required to file income tax returns on Form 1120, U.S. Corporate Income Tax Return, annually with your respective Service Center.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement Form 6018. Please note that the instructions for signing on the reverse side of this form.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information in support of your position as explained in the enclosed Publication 892. You will be contacted to arrange a date for a hearing. The hearing may be held at the Office of Regional Director of Appeals, or if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination. Section 7428(b)(2) of the Internal Revenue Code provides, in part that, "a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia

[REDACTED]

determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely,

[REDACTED]  
District Director

Enclosures:  
Publication 892  
Form 6018