

Internal Revenue Service

Department of the Treasury

District
Director

1100 Commerce St., Dallas, Texas 75242

Date: DEC 24 1996

Employer ID Number:

Person to Contact:

Telephone Number:

Refer Reply To:

[REDACTED]

[REDACTED]

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code.

You were formed on [REDACTED]. According to your organizing document, the Charter, your purposes are to share ideas, enhance user skills, continue dialog among members and vendors, and influence the direction of [REDACTED] and related products and services. The charter also indicates that you are a "Local Community" of [REDACTED].

Your membership fee/structure is as follows:

Corporate	\$30.00	2 votes
Individual	20.00	1 vote
Student	10.00	0 votes

According to minutes from your meeting on January 18, 1996, you will hold meetings every other month until membership and demand dictate a change to a monthly schedule. The meetings are to focus on the needs of the users and their interests in professional development, skill-building and productivity. The agenda of the meetings may include:

- Member Showcase. Allow members to bring in projects for review by colleagues.
- User Talks. Allow two users per meeting to describe problems they've had, or on specifics such as "how to establish standards."
- New Member Introduction. Allow new members to introduce themselves, describing where and how they use [REDACTED] and in what application(s).
- Featured Speaker. Provide an experienced [REDACTED] user or [REDACTED] representative to speak on a particular topic.

The minutes also indicated that a newsletter will be mailed between meetings to notify the membership of upcoming events, encourage recruitment of new members and provide other news of interest to members.

The minutes of the March 5, 1996, meeting indicated that the newsletter would include advertising and classified sections. The minutes stated that the focus of the May 7, 1996, meeting would be [REDACTED] [REDACTED] from [REDACTED] gave a presentation on the benefits of [REDACTED] and local user group membership. She explained that the goals of [REDACTED] were to promote better education and networking between [REDACTED] users. She also talked about the [REDACTED] and possible topics and guest speakers for future meetings, including [REDACTED] a popular [REDACTED] author.

Additional information provided during the review of your application indicates that [REDACTED] It is written by [REDACTED] [REDACTED] works on a large variety of operating systems and hardware platforms i.e., DOS, MAC, UNIX, Windows 3.1, NT & 95, OS2, etc. You stated that [REDACTED] is the combined use of available software packages and personal customizing to enhance and improve efficiency in many diverse fields. You have members from fields such as civil, structural, mechanical, aeronautical, electrical and transportation engineering; architecture; landscaping; governmental agencies; graphic information system (GIS) use; lighting contracting; and interior decoration.

A description of [REDACTED] to include its tax-exempt status was requested from you. Instead, you provided a statement that at dissolution, your assets will go to [REDACTED] rather than [REDACTED]

Section 501(c)(6) of the Internal Revenue Code provides exemption for:

"Business leagues, chambers of commerce....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 regulations provides 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 and not to engage in 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. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.
***"

In National Prime Users Group, Inc. v. U.S. 667 F. Supp. 250, an organization did not qualify as a business league entitled to exempt status since it did not meet the line of business requirement. The organization was organized for users of computer equipment manufactured by one particular corporation and did not serve the interests of the entire industry.

In Guide International Corporation v. U.S. 948 F.2d 360, an organization didn't qualify as a tax exempt business league because it failed to meet the requirement that its services benefit an entire "line of business". The organization's membership was limited to businesses owning IBM mainframe equipment and its activities were focused on their specific interests and user needs.

Revenue Ruling 74-147, 1974-1 C.B. 136 describes an organization whose members represent diversified businesses that own, rent, or lease digital computers produced by various manufacturers, organized to improve the efficiency of its members' use of computers, qualifies for exemption under section 501(c)(6) of the Code.

Revenue Ruling 83-164, 1983-2 C.B. 95 indicates that an organization whose members represent diversified businesses that own, rent or lease computers produced by a single computer manufacturer does not qualify for exemption under section 501(c)(6) of the Code.

Revenue Ruling 83-164 and both of the cases noted above cite National Muffler Dealers Association, Inc. v. United States, 440 U.S. 472, 477-479 (1979). In that case, a trade organization for muffler dealers was not exempt. It confined its membership to dealers franchised by a particular company and its activities to the business of that company. The court held that Midas Muffler franchisees do not constitute a "line of business" and that tax exemption as a business league "is not available to aid one group in competition with another within an industry".

You state that you should be exempt under section 501(c)(6) of the Code because your members consist of individuals from varying fields and you are organized with the intent of not only promoting the common business interest of the members, but also seeking to improve operational efficiencies in each of the lines of business represented.

Your members do have a common business interest in the use of computer software similar to the common business interests described in the revenue rulings and the two court cases concerning computer hardware. However, the organization in Revenue Ruling 74-147 directs its activities to users of hardware made by diverse and competing manufacturers, and therefore is tax exempt. You direct your activities to users of software made by one manufacturer and are like the organizations described in Revenue Ruling 83-164, National Price Users Group, Guide International Corporation, and National Muffler Dealers Association, which are not tax exempt.

By directing your activities to the users of [REDACTED] software, you are directing your activities toward the improvement of business conditions in only segments of the various lines of business to which your members belong. Because you limit your activities to the users of [REDACTED] software, you help provide a competitive advantage to [REDACTED] and its customers at the expense of [REDACTED] competitors and their customers that may use other brands of software. Your activities are not directed towards the improvement of business conditions in one or more lines of business within the meaning of section 1.501(c)(6)-1 of the Regulations.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code, and you are required to file Federal Income Tax Returns on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

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

Sincerely,



Bobby E. Scott
District Director

Enclosures:
Publication 892
Form 6018