

Internal Revenue Service

District  
Director

Department of the Treasury

1100 Commerce St., Dallas, Texas 75242

Date: FEB - 5 1999

Employer ID Number:

Person to Contact:

Telephone Number:

Refer Reply To:

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.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of [REDACTED]. Your primary purpose, as stated in your organizational document, is to promote tourism in the greater [REDACTED] area.

Form 1023 was submitted on [REDACTED]. You subsequently submitted a Form 1024 application dated [REDACTED] requesting exemption under Internal Revenue Code Section 501(c)(6).

The primary activity as stated in the application is as follows:

"The primary activity of the organization is to promote [REDACTED] along [REDACTED] located in [REDACTED] and [REDACTED] counties. The organization will provide advertisements in various magazines, newspapers, and on television, and will distribute brochures which include a map of the area and location of members."

Your application states that members must be [REDACTED] located in [REDACTED] or [REDACTED]. Membership dues for each of the [REDACTED] members is \$[REDACTED]. Associate members are businesses complimentary to [REDACTED], such as restaurants, or bed and breakfasts in [REDACTED], [REDACTED] or [REDACTED] and the Associate Member annual fee is \$[REDACTED].

Your application also shows that the organization is able to purchase certain items at bulk rates which members can purchase from the organization at cost.

The brochures and advertisements received with Form 1024 bore the names of the [REDACTED] association members, gave background information for each [REDACTED] noted merchandise available for sales, and gave business hours.

In order to ensure that the advertising received was not an incidental part of the total literature issued by the organization, a letter requesting additional information was issued to [REDACTED] on [REDACTED]. Copies of all brochures issued by the organization was requested, as well as a copy of one of the TV scripts.

The response to our letter contained the following information:

- A 15 second television script with a general message that there were [REDACTED] but not mentioning the individual [REDACTED]. Also, the phone number [REDACTED] was given to get further information about the area. Other information sent noted that a listing of all affiliated members would be maintained by the telephone information service.
- A list of the advertising expenses for [REDACTED] citing advertising expenses showing over [REDACTED] of your income expensed for newspaper and magazines, a billboard, and some promotional gifts.
- More brochures describing in detail each of the [REDACTED] member [REDACTED].

All advertising that has been forwarded by the organization has the name of and directions to the individual [REDACTED] members.

A brochure issued to associate members indicates that literature racks at all [REDACTED] wineries will contain promotional pieces of associate members. It was acknowledged in your letter of [REDACTED] that there were other wineries in the area who are not members of your organization. The only advertisements are for the [REDACTED] wineries which are members.

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

Section 1.501(c)(6)-1 of Income Tax Regulations reads 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 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. 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.

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable...or educational purposes...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(c)(1) Primary activities. An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

"(d)(1)(ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

Revenue Ruling 65-315, 1965-2 C.B. 236 covers an association of merchants whose businesses constitute a shopping center that 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. This advertising contains the names of member merchants and their merchandise. This organization is not entitled to exemption from Federal income tax. It is the position of the Service that publication of advertising that carries the names of its members and their merchandise constitutes the performance of particular services for members rather than an activity directed to the improvement of business conditions.

Rev. Rul. 65-14, 1965-1 C.B. 236 provides that an organization formed to promote the tourist industry in its area, whose principal activity is publishing a tourist guidebook and other advertising matter containing listings of the names of individual members, is performing particular services for its members and is accordingly not exempt under Internal Revenue Code Section 501(c)(6).

The applicable Income Tax Regulations provide that organizations contemplated by Section 501(c)(6) of the 1986 Code are those whose activities are directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individuals. Therefore, an organization which directs a substantial portion of its overall activities to the issuance of advertising material containing listings of the names of individuals may be precluded thereby from qualification for exemption under Section 501(c)(6) of the Code.

Since a substantial portion of your organization's overall activities are devoted to the issuance of advertising material containing listings of individual merchants, or businesses, like the organizations in Revenue Ruling 64-315 and Revenue Ruling 65-14, you do not qualify for exemption under Internal Revenue Code Section 501(c)(6).

The above described operations indicate that your activities are aimed at the performance of particular services for your individual members as distinguished from the improvement of business conditions generally as required by Section 1.501(c)(6) of the Income Tax Regulations. Your activities benefit only your members and not the common business interests of the industry,

You are not operated exclusively for educational, charitable, or religious purposes as required by section 501(c)(3) of the Code. You are operated for the benefit of your five members and you serve a private purpose and not a public purpose as required by Regulation 1.501(c)(3)-1(d)(1)(ii).

section of the Internal Revenue Code. Accordingly, you are required to file Federal income tax returns on Form 1120, annually with your District Director.

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.

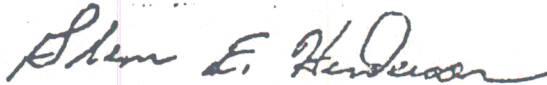
If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Code as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section 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 determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

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,



Glenn E. Henderson  
District Director

Enclosures:  
Publication 892  
Form 6018