

Internal Revenue Service

Department of the Treasury

Person to Contact:

Employer Identification Number:

Contact Telephone Number:

In Reply Refer to:

Date: MAR - 7 2000

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for tax exemption under that section. The reasons for this conclusion and the facts on which it is based are explained below.

You were incorporated in [REDACTED], for general purposes stated as exclusively within the meaning of section 501(b) of the Internal Revenue Code of 1986.

Your organization is a membership organization, currently consisting of [REDACTED]. These organizations each paid \$ [REDACTED] in membership dues and assessments your first year. The budget was increased to \$ [REDACTED] per facility for subsequent years. Total income from membership dues and assessments was to be \$ [REDACTED] for your first year. Additionally, you received \$ [REDACTED] from hotel partners during your first year. You expect subsequent year fares to total \$ [REDACTED] per year from [REDACTED].

Your application stated your primary activities are as follows:

- 1) Advertising
- 2) Public relations
- 3) Internet marketing
- 4) Sales Trips to Countries
- 5) Physicians, Pediatric, Executive, and Marketing Committees
- 6) Community Based Marketing

In subsequent correspondence you further explained your activities as the promotion of the entire United States health care industry in [REDACTED] to foreign individuals in need of quality health care. You state the line of business of the entire United States health care system is advanced and promoted since most of the hospitals comprising your organization are affiliates or divisions of larger hospitals located throughout the United States. You will use a marketing and public relations campaign to target foreign individuals, and provided the following list of activities:

- 1) Advertise the United States health care industry through regional publications and brochures distributed in South America;
- 2) Bring [REDACTED] to learn the cutting edge medical technologies provided by the United States health care industry;
- 3) Maintain a website in three languages which will provide [REDACTED] with information on the latest medical technologies provided by the United States health care industry;
- 4) Put [REDACTED] who are in need of medical attention in contact with hospitals in [REDACTED] who can assess their illnesses. In turn, the patients will be linked with hospitals and doctors [REDACTED] or elsewhere as needed by patients;
- 5) Arrange for accommodations for those patients coming to the United States to assess whether any medical technology is available in the United States health care industry to assist them;
- 6) Arrange for Chairmen of the Boards of your organization to travel to [REDACTED] to make presentations and speeches on the latest medical technologies provided by the United States health care industry.

[REDACTED]

You indicate these activities will be carried out by [REDACTED] (one from each member), [REDACTED]. You had contracted with [REDACTED] and [REDACTED] to act as your advertising and marketing agency [REDACTED]. You state that [REDACTED] % of your time and effort is devoted to marketing and promoting the entire United States health care industry, further providing that this [REDACTED] % is broken evenly between advertising in regional publications, coordinating journalist visits, maintaining the website, coordinating patient/hospital contacts, and travel by your staff to [REDACTED] to promote your activities.

You state that over [REDACTED] general information requests have been processed by your organization, and over [REDACTED] patients from [REDACTED] have been educated about and treated under the United States health care system as a result of your organization. All of the patients were treated at member hospitals.

You currently have [REDACTED] who have provided fees to you. In return for their fees, their agreement to provide free lodging to journalists, and corporate rate accommodations for patients using your services, you list the member hotels in your publications and documents, as well as the accommodations they offer. These agreements are verbal. In addition to the hotel partners, you also indicate you have verbal agreements with airlines, cruises and travel agents as well. You state that in return for providing these entities with notoriety and publicity [REDACTED], your organization receives airline, cruising and travel packages for journalists and patients coming [REDACTED], as well as some notoriety in their advertisements.

You have provided five publications in support of your application. You submitted three one page advertisements [REDACTED], which use [REDACTED], [REDACTED], all of which are property of your organization. All of these explain you are an alliance of the [REDACTED], and advertise a one-day physical assessment for [REDACTED]. All of these advertisements prominently display your members names, and two of the three prominently display the names of [REDACTED]. All of these advertisements contain your phone and fax numbers, as well as e-mail address and website. These advertisements state that for potential clients to make appointments or reservations, or for more information, they should contact your organization. The fourth publication submitted is [REDACTED] advertising feature, in which you [REDACTED] states some of the services provided by your members, mentions the [REDACTED] assessment offer, and provides contact information. Your members names are displayed prominently, and [REDACTED] are mentioned by name in the advertisement. The fifth publication submitted is a large advertising brochure. Each individual member and hotel partner are represented by their own individual ads providing their services, features, addresses and photographs of their facilities. The brochure also provides an area map indicating the location of each member and [REDACTED], as well as a solicitation to use their services. The brochure offers to make reservations for potential clients, and provides your organization's contact information to perform these services. The brochure also mentions the [REDACTED] medical evaluation offer made by your organization.

Your organization maintains a website in three languages, [REDACTED]. You state that [REDACTED] is the English translation of the other two websites. On your English language website, you state you are a consortium of [REDACTED] highly qualified physicians and on-staff healthcare professionals. You repeatedly mention the names of your [REDACTED] individual members. Your [REDACTED] are mentioned individually under "[REDACTED]", as well as elsewhere. You promote the [REDACTED] health care assessment offered by your physicians, as well as a [REDACTED] exam aimed at children. On the contact page, you offer to make reservations for clients or provide additional information, as well as offering to provide e-mails when new services are available. Under "feature stories", you indicate you have launched a unique marketing program intended to draw [REDACTED] for medical care, and you are partnering with hotels, airlines, international travel agents and the medical community to offer package services. You state participating hospitals retain their international physician's outreach programs, but you will help them focus more on direct patient recruitment, with a goal of doubling the number of patients. You state requests for the health exam or questions regarding the program typically arrive via e-mail to your organization and are quickly handled, with VIP service a key element which will make your organization successful. You state your organization is satisfied with the results of year one's efforts, primarily a branding campaign handled by [REDACTED]. Your stated year two goals include increasing visibility at [REDACTED] continuing internet marketing opportunities, creating packages including the comprehensive physical exam, and raising additional funding from new partners.

Section 501(c)(6) of the Internal Revenue Code provides for exemption of business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues, which are 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 states 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. 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 56-65, published in Cumulative Bulletin 1956-1, on page 194, held that a local organization whose principal activity consisted of furnishing particular information and specialized individual service to its individual members engaged in a particular industry through publications and other means to effect economies in the operation of their individual businesses was performing particular services for individual persons. Such organization did not qualify for exemption under section 501(c)(6), of the Internal Revenue Code as a business league even though it performed functions, which were of benefit to the particular industry and the public generally.

Revenue Ruling 56-84, published in Cumulative Bulletin 1956-1, on page 201, held that an organization operated primarily for the purposes of promoting, selling, and handling the national advertising in its members' publications, is engaged in the performance of particular services for individual members as distinguished from activities for the improvement of business conditions of its members as a whole was not entitled to exemption from Federal income tax under Code section 501(c)(6).

Revenue Ruling 59-391, published in Cumulative Bulletin 1959-2, on page 151, held that an organization composed of individuals, firms, associations, and corporations, each representing a different trade, business, occupation or profession whose purpose is to exchange information on business prospects has no common business interest other than a mutual desire to increase their individual sales. The activities are not directed to the improvement of one or more lines of business, but rather to the promotion of the private interests of its members.

Revenue Ruling 64-315, published in Cumulative Bulletin 1964-2 on page 147, held that an association of merchants whose businesses constitute a shopping center which expends its funds and engages solely in advertising through the media in order to attract customers to the shopping center is not entitled to exemption under section 501(c)(6) of the Internal Revenue Code. The advertising contained the names of member merchants and their merchandise, which constituted the performance of particular services for the members rather than the improvement of a line of business.

Revenue Ruling 65-14, published in Cumulative Bulletin 1965-1, on page 236, held that an organization formed to promote the tourist industry in the area and whose principal activity is the publication of a yearbook consisting largely of paid advertisement for its members is not entitled to exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code. The publication of advertising matter containing the names of individual members constitutes advertising for the individuals so advertised and is thus considered the performance of particular services for such individuals, rather than an activity aimed at the improvement of general business conditions.

Revenue Ruling 68-182 published in Cumulative Bulletin 1968-1, on page 263, states that it is the position of the Internal Revenue Service that organizations promoting a single brand or product within a line of business do not qualify for exemption from Federal income tax under section 501(c)(6) of the Code.

Revenue Ruling 70-80, published in Cumulative Bulletin 1970-1 on page 130, held that an association of manufacturers whose principal activity is the promotion of its members products under the association's registered trademark does not qualify for exemption under section 501(c)(6) of the Internal Revenue Code. The organization extolled the superior quality of the trademarked products without making mention of comparable non-trademarked products. The trademarked products were promoted in such a way as to give the members a competitive advantage over others in the business by extolling the superior quality of the trademarked products. Thus, the trademark promotion is not directed toward the improvement of business conditions of the industry as a whole, but is the performance of particular services for members.

[REDACTED]

Revenue Ruling 70-81, published in Cumulative Bulletin 1970-1 on page 131, held that the exempt status of a chamber of commerce is not adversely affected by the development of an industrial park in order to attract new business to a community. As part of its activities, the organization attempted to attract new business to the community, but had difficulty because of a lack of suitable facilities and services. The organization purchased and developed an industrial park, which was used to attract new industry to the area. Sites were sold to relocating industries at low prices, sometimes less than cost. Initial funds were derived from the sale of bonds that were to be retired from the proceeds of the sales of sites. It was determined that the acquisition, development and sale of sites in this manner, to attract industry to a community is in furtherance of the chambers purpose of improving the general business conditions of the community.

Revenue Ruling 71-175, published in Cumulative Bulletin 1971-1 on page 153, held that an organization that has as its principal activity the operation of a telephone-answering service for member doctors does not qualify for exemption under section 501(c)(6) of the Internal Revenue Code. By providing this service, it was found that the organization is relieving the individual members of the necessity of securing this service commercially, and thus is rendering particular services to the members as distinguished from the improvement of business conditions in the medical profession and public health area generally

Revenue Ruling 72-211, published in Cumulative Bulletin 1972-1 on page 150, held that an organization formed to promote the interests of its members and persons or firms related to the building and construction industry by providing a plan room and news bulletin available to the entire industry qualifies for exemption under section 501(c)(6) of the Internal Revenue Code. The organization's principal activity is operating and maintaining a plan room, which is open for use by all individuals and businesses in the industry, nonmembers as well as members. The organization performed no other services with respect to the plans or submission of bids. It was found that the provision of a news bulletin and plan room available to the entire industry without charge improves the business conditions of that line of business because it makes information on the projects freely available to that industry as a whole.

Revenue Ruling 74-308, published in Cumulative Bulletin 1974-2 on page 168, held that an organization whose principal activity is providing a telephone answering service to distribute calls for towing service on a rotational basis to members who are tow truck owners and operators does not qualify for exemption under section 501(c)(6) of the Internal Revenue Code. The primary effect of the activity was to provide the organization's members with an economy and convenience in the conduct of their individual businesses, and thus was considered to be the performance of particular services.

Revenue Ruling 76-207, published in Cumulative Bulletin 1976-1 on page 158, held that an organization formed by a city's civic leaders, public officials, businessmen, and representatives of the community-at-large to encourage conventions of national organizations in the city by making arrangements for facilities, services and administrative support necessary to run a convention, qualifies for exemption under section 501(c)(6) of the Internal Revenue Code. This organization receives most of its support from fund-raising events and from the general public. The organization represents the city in negotiations with organizations looking for potential convention sites, and offers to provide the visiting organization with facilities, services and administrative support necessary to run its convention. This includes arranging for private services and facilities to accommodate people attending the convention. Since conventions require an extraordinary amount of goods, services and facilities, and thereby stimulate and promote the common economic interests of businesses throughout the community, the organization qualified under section 501(c)(6).

While you claim to be promoting the entire United States health care industry, it appears that any benefits to the general United States health care industry would be remote and indirect. You indicate most of your members are affiliates or divisions of larger hospitals. These larger related entities could benefit, in an indirect manner and probably to an insubstantial degree. The rest of the industry (the majority) would receive no real benefit. The way your organization is operated, you are also not benefiting the entire health care industry in [REDACTED]. If a local hospital does not pay for the services you provide, it would receive virtually no benefit. You advertise your member organizations and direct inquiries for services to your members. As you indicate [REDACTED], your advertising activities could tend to draw potential clients away from non-member health care entities to your member entities.

[REDACTED]

Your activity of advertising (marketing and promoting) the health care industry is the performance of particular services for your member organizations. Your publications and website are primarily used to advertise the services available from your individual member organizations. Member organizations are cited prominently by name, and their services are advertised [REDACTED]s, who pay for the service, are listed by name in all but one advertisement. Your journalist visits and travel by your staff (representatives of your individual member organizations) appear also to be primarily a vehicle for your individual members to showcase their available services. Your organization is similar to the organization that was denied in Revenue Ruling 64-315, in that both organizations primarily advertise for their member organizations, identifying them by name and their available services. This was found to be a particular service rather than furthering a line of business. Your organization also resembles the organization denied in Revenue Ruling 65-14, which issued a yearbook consisting largely of paid advertising for its members. It was determined the publication of advertising matter containing the names of individual members constitutes advertising for these individuals, and thus is considered the performance of a particular service. While your advertising is not in yearbook form, your publications and website are primarily used to advertise for your members.

Your organization's structure is similar to the organization that was denied in Revenue Ruling 70-80, in which a trade association of manufacturers whose principle activity was the promotion of its members' products under the association's registered trademark was found to be the performance of particular services for its members. Your organization operates under [REDACTED], depending on where the advertising is occurring. You state the alliance is [REDACTED] "top" or "outstanding" health care facilities. Your website indicates you have "over [REDACTED] highly qualified physicians and on-staff healthcare professionals", in effect saying the [REDACTED] members are operating as one entity under your alliance. You are actively marketing your members services under the alliance's logos shown above. You indicate on your website that you were satisfied with your first year's efforts, primarily a branding campaign. Your [REDACTED] states that you will focus on local brand recognition [REDACTED]. Similar to the organization in Rev. Ruling 70-80, you are promoting and selling your product under your association's registered name. Similar to the above mentioned organization, your advertising extols the superior quality of your members product (services), without mentioning comparable non-member entities features and services. The way you market and advertise the services is intended to give your members a competitive advantage over others in the same industry. This is considered to be the performance of particular services for your members.

In Revenue Ruling 68-182, the Service states its position that organizations promoting a single brand or product within a line of business do not qualify for exemption under section 501(c)(6) of the Code. Your organization is actively seeking identification of your members services under a brand, the only one in the industry you promote.

Your activity of coordinating patient/hospital contacts, namely fielding phone calls and e-mail, requesting specific follow-up information, and forwarding the requests to your member hospitals, is a particular service for your members. This activity of your organization is similar to the organization denied in Revenue Ruling 71-175, which was the operation of a telephone answering service for members. It is also similar to the organization denied in Revenue Ruling 74-308, which provided a telephone answering service and distributed calls on a rotational basis to its members. In both of these cases, this service was determined to be the rendering of particular services to its individual members, rather than the furtherance of any general line of business. We have determined that this activity provides your member organizations with an economy and convenience in the conduct of their individual businesses, and thus is the performance of a particular service for your members.

Regarding [REDACTED] these organizations are not bona fide members of your organization and do not serve to improve the line of business of health care in any direct manner. Rather, these organizations have entered into financial and quid pro quo agreements with your organization with the intention of improving their own individual business economies. This is also true of your airline and cruise partners. In this manner, this activity is similar to that of the organization denied in Revenue Ruling 56-84, which dealt with an organization of different trades, businesses and professions, whose purpose was to exchange business prospects. Like that entity, your members and your partners have no real common business interests other than a mutual desire to increase your individual sales. While your organization and partners are not as professionally diversified as those in the revenue ruling, the principle remains the same. The activity is not geared towards the improvement of one or more lines of business, but instead is operated for the promotion of the private interests of your members and partners. Even the activity of promoting, selling and handling the advertising in your publication to your partners is the performance of particular services for you members, per Revenue Ruling 56-84.

[REDACTED]

You have favorably compared your organization to the entity approved in Revenue Ruling 70-81, in which a chamber of commerce purchased land and developed an industrial park in order to attract new industry to an area which had lacked suitable facilities. However, we have noted some important differences between your organization and that entity. That entity was not providing advertising and marketing services for its individual members, was not providing phone and e-mail answering services to members, and was not geared toward the recruitment of clients for its individual members. Additionally, the chamber of commerce was trying to attract new businesses to a community to improve the general business conditions of that community, as opposed to the solicitation of clients for members in an already established industry. These differences in activities and purposes differentiate your organization from the entity in Revenue Ruling 70-81. Therefore, we feel this ruling is not applicable to your organization.

You have favorably compared yourself to the entity approved in Revenue Ruling 72-211, which approved an organization that operated a plan room, open for use by members and non-members in the industry. That entity also published a news bulletin, available to anyone in the industry. We believe that this revenue ruling is not applicable to your organization, due to the fundamental differences in activities and purposes. That entity was not providing particular services to its members, such as advertising their services, prominently identifying them by name, fielding inquiries from potential clients and forwarding them to the individual members. . . . Rather, that organization was simply making a room and information available to all members of an industry, members and non-members alike. Simply because anyone can read the information on your website does not mean it is promoting the entire line of business. In effect, it just means other hospitals can read the advertising you are doing for your members, and read about the other particular services you are providing them. The primary focus of the website is not to educate the medical industry as a whole, but rather to solicit clients for your individual members and partners. Revenue Ruling 56-65 would be more applicable in this case. That organization performed activities similar to the entity in Revenue Ruling 72-211, but also provided particular services to its members. That organization was denied exemption under section 501(c)(6) due to the provision of the particular services, despite the fact some functions benefited the particular industry and public generally.

You have also favorably compared yourself to the organization approved in Revenue Ruling 76-207, in which a chamber of commerce solicited conventions of national organizations to hold their conferences in that city. That organization did arrange for some private services and facilities to accommodate the large groups of people attending the conference. We believe this revenue ruling is not applicable to your organization, due to the difference in structure, purposes and activities of the two organizations. The approved organization was comprised of civic leaders, public officials, businessmen and representatives of the community at large, and was primarily supported by fund-raisers and donations from the general public. Your organization is comprised of a representative of each of the [REDACTED] paying member organizations, as well as a paid employee, and received its funds from dues and assessments of members and partners. The approved organization's general purpose was to solicit national organizations to hold their conventions in the applicant's city, thus stimulating the common economic interests of businesses throughout that community (due to the extraordinary amount of goods, services and facilities utilized during such conventions). Your primary purpose, from the evidence submitted, is providing particular services in the form of advertising, marketing and support services to your individual members in order to promote the private interests of your members. Among the activities of the approved organization was representing the city in negotiations, making arrangements with the city to provide necessary facilities and municipal services, arranging for private services to accommodate attendees, acting as a welcoming committee and ensuring that all agreed-to services are provided. The primary activity of your organization, as previously discussed, is the provision of advertising, marketing and other particular services for the primary benefit of your individual members and partners. The approved organization was found to be stimulating and promoting the common economic interests of businesses throughout the community, due to the extraordinary amount of goods, services and facilities required to host a national convention. Their primary objective was not to serve the private interests of their dues paying members through the solicitation of clients for these individual entities, and others who pay for the advertising. While that entity improves the common economic business interests of a community, your organization primarily seeks to provide your members with an economy and convenience in the conduct of their individual businesses, through the provision of particular services.

Therefore, 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 Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

(7)

[REDACTED]

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If someone who is not one of your principal officers will represent you, that person will need to file a power of attorney or tax authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

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

Sincerely,



Steven T. Miller  
Director, Exempt Organizations

Enclosure: Publication 892