

NO PROTEST RECEIVED
Release copies to District

Date [REDACTED]

Surname [REDACTED]

[REDACTED]

[REDACTED]
(202) [REDACTED]

[REDACTED]

[REDACTED]

Employer Identification Number: [REDACTED]
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code. We have determined that you do not qualify for exemption under that section of the Code. Our reasons for this conclusion and the facts upon which it is based are explained below.

The information submitted indicates that you were incorporated on [REDACTED], under the laws of the State of [REDACTED]. Your Articles of Incorporation provide that you are organized to bring together business persons from the hospitality industry for networking and group insurance benefits and to engage in all other lawful acts or activities not for pecuniary profit for which [REDACTED] not-for-profit corporations may be organized. Your Articles also provide that all persons interested in your purposes are eligible for membership if they are capable of contributing to the achievement of those purposes and your effective operation. Your Articles further provide that members shall have no voting rights or other rights except as provided in your bylaws.

Your bylaws provide that persons may be elected to your membership only by majority vote of your Board of Directors. Your bylaws also provide that your members are entitled to vote only on the matters submitted to them by the Board of Directors, or as required by law, and each members shall be entitled to one vote only on matters submitted to a vote by your Board of Directors. Your bylaws further provide that the current Board of Directors shall vote every year to elect the persons who will serve on the new Board of Directors, and that the organization shall have the officers and assistant officers that the Board of Directors appoint from time to time.

In the section of your application requesting a detailed narrative of all your activities, you state that you are a trade

[REDACTED]

association that provides benefits to your members at reduced costs. You state that the benefits/business services you provide are worker's compensation insurance, payroll tax preparation, credit card processing, employee drug testing, food service group purchasing, incorporation and trademark service, and a long distance discount program. You state that your income will come from dues at [REDACTED] per year per member, and from vendor member marketing fees. In your letter dated [REDACTED] you explain that the marketing fees represent a commission charge paid to you by member-vendor sales to other members. You state that you do not provide any of the services, rather you merely bring together vendors/customers in the hospitality industry, and that your services are available only to members and are provided only by member-vendors. You also state that you do not enter the service agreements, but that the members enter the agreements between themselves. You state that your objective is to facilitate the hospitality industry in bringing together vendors/customers which provide/need the detailed services.

In your letter dated [REDACTED] you state that the hospitality industry has been a viable industry in [REDACTED] economy for many years, but, as with many industries, small companies in the hospitality industry have become less profitable because of large company competition. You state that the smaller entities do not enjoy the economy of scale benefits that larger companies do, and your purpose and goal of bringing together these small hospitality businesses is to provide a mechanism through which they can benefit from economies of scale. You state that, for example, by bringing together small companies, you can negotiate better workers compensation rates for your members than the companies would receive on an individual basis. You state that the joint purchasing power of the members provide for lower workers' compensation insurance premiums, lower liability insurance premiums, smaller payroll processing fees (smaller percentage of gross payroll), and smaller credit card merchant fees.

In your membership information and application brochure, you state that you operate a true network organization between members and your endorsed vendors. The brochure stresses that membership provides access to innovative programs that save the members money. The brochure states that Workers' Comp "Pay As You Go" Program is offered by [REDACTED]; Payroll & Payroll Tax Preparation is offered [REDACTED]; Credit Card Merchant Processing is offered by [REDACTED]; Employee Drug Testing is offered by [REDACTED]; Foodservice Group Purchasing is offered by [REDACTED]; Beverage Law/Responsible [REDACTED] is offered by [REDACTED]; Incorporation & Trademark Service is

[REDACTED]

offered by [REDACTED] POS, [REDACTED]
[REDACTED] is offered by [REDACTED] Customer
Service Training is offered by [REDACTED]; Long
Distance Discount Program is offered by [REDACTED]
Network; Payphone Program is offered by [REDACTED]
[REDACTED] Foodservice Kitchen Equipment Discounts is offered by
[REDACTED] Remote Security Television
Equipment is offered by [REDACTED]; and State Health &
Licensing Regulations, including health regulations, DBPR
Administrative Rules, required poster information, and [REDACTED]
[REDACTED] information is offered by [REDACTED]. The brochure also
states that shortly you will be "rolling out" major medical group
insurance coverage, a "prompt pay" vendor program, a "customer
loyalty" program, and a property and casualty business insurance
program.

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. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for a 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.

Rev. Rul. 56-65, 1956-1 C.B. 199, holds that a local organization whose principal activity consists of furnishing particular information and specialized individual services to its individual members engaged in a particular industry, through publications and other means to effect economies in the operation of their individual businesses, is performing particular services for individual persons. Such organization, therefore, is not entitled to exemption under section 501(c) (6) of the Code as a business league even though it performs functions which are of benefit to the particular industry and the public generally. The activities of the organization consist of the maintenance of plan rooms for the convenience of members, where plans and

specifications for local construction projects, together with the names of general contractors bidding on specific projects, are filed.

Rev. Rul. 65-164, 1965-1 C.B. 238, holds that negotiating written collective bargaining labor contracts for the general membership, interpreting such contracts, and mediating or settling jurisdictional and other disputes are to be considered incidental activities under section 501(c)(6) of the Code since these activities further the common purpose with respect to the common labor problems of the business group and do not represent services to individual members which the members could purchase elsewhere. The revenue ruling also states that where such services do not further the common interests and individual members derive a direct and non-incidental benefit from the services rendered, the organization would not qualify for exemption under section 501(c)(6).

Rev. Rul. 66-151, 1966-1 C.B. 152, holds that the management of health and welfare plans for a fee by a business league exempt under section 501(c)(6) of the Code is unrelated trade or business within the meaning of section 513. In the revenue ruling, the organization's purpose and principal activity is to represent its member firms in all matters pertaining to their relations with labor and labor unions. The organization also regularly manages health and welfare plans for its members, receiving a fixed fee for each employee covered by a plan. Significant amounts of its income and expenses are attributable to the management of these plans.

Rev. Rul. 68-264, 1968-1 C.B. 264, holds that primary activities that constitute a regular business of a kind ordinarily carried on for profit will preclude exemption from federal income tax under section 501(c)(6) of the Code. In this case, the organization was providing services to members and nonmembers.

Rev. Rul. 74-81, 1974-1 C.B. 135, holds that a nonprofit organization formed to promote the business welfare and interests of persons engaged in the contracting trade and related industries and whose principal activity is to provide its members with group workmen's compensation insurance is not entitled to exemption under section 501(c)(6) of the Code. The revenue ruling states that by providing group workmen's compensation insurance for its members, the organization relieves the members of obtaining this insurance on an individual basis, resulting in a convenience in the conduct of their businesses. Therefore, the organization is rendering particular services for individual persons as distinguished from the improvement of business

conditions in the contracting and related industries generally, and does not qualify for exemption from federal income tax under section 501(c)(6) of the Code.

In Associated Master Barbers & Beauticians of America, Inc. v. Commissioner, 69 TC 53 (1977), the court sustained the revocation of the petitioner's exempt status under section 501(c)(6) of the Code because of the extensive commercial services provided to members. The court stated:

Because these activities serve as a convenience or economy to petitioner's members in the operation of their business, we think they constitute "particular services" as proscribed by the regulations. By providing insurance or textbooks for its members, the petitioner relieves its members of obtaining insurance or textbooks on an individual basis from a nonexempt commercial business. If the petitioner did not provide these goods and services, its members would have to obtain them from nonexempt businesses at a substantial increased cost. Thus, the organization is rendering "particular services" for the individual members as distinguished from an improvement of business conditions in barbering and beautician professions generally.

From the facts you have presented, it is clear that you were formed for, and your primary activity consists of, providing your members the opportunity of receiving a variety of services whose sole purpose is to save your members money. Although your vendor-members actually provide the services you advertise, your involvement is the manner in which these services can be offered. This activity is the performance of particular services for your individual members, and, as such, is proscribed from being a primary activity for purposes of exemption under section 501(c)(6) of the Code pursuant to section 1.501(c)(6)-1 of the regulations. The argument described in Rev. Rul. 56-65, supra, is particularly applicable to you because your primary objective and activity is merely to bring your members together to do business with each other in order to achieve economies of scale.

Your activity is not similar to the exempt negotiation activity carried on by the organization described in Rev. Rul. 65-164, supra, because your activities represent services to individual members which the members may purchase elsewhere. Also, your members receive a direct and non-incident benefit from the services you render. Similar to the organization described in Rev. Rul. 74-81, supra, your primary activity relieves your members of negotiating and obtaining these benefits

[REDACTED]

on an individual basis, resulting in a convenience in the conduct of their businesses. The fact that the benefits may be more expensive if sought by your members individually rather than collectively is immaterial for purposes of exemption as noted in Associated Master Barbers & Beauticians of America, Inc., supra.

For this reason, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(6) of the Code. You are required to file federal income tax returns.

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

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to your key District Director.

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following address on the envelope:

[REDACTED]

Sincerely yours,

cc: [REDACTED]

cc: [REDACTED]

[REDACTED]