

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: NOV 29 1991

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(12) of the Internal Revenue Code.

Your application Form 1024 indicates that your organization was created as an unincorporated association on [REDACTED]. However, you have failed to submit a constitution, articles of association or any other organizing instrument signed by two individuals showing the date of adoption.

Your bylaws state that your organization exists for the following purposes:

The objects of this Association shall be:

To stimulate, foster, promote and encourage among its members, lawful cooperation in all matters affecting their interests and the welfare of the distribution of soft drinks and related products; and

To gather, record and disseminate among and between its members, such information respecting their interests in the distribution of [REDACTED] products and related products as may be useful and beneficial to the members; and

To negotiate and, when so authorized by its members, enter into on behalf of its members, appropriate agreements with other persons or organizations; and

To adjudicate and adjust disputes between members of the Association arising out of the conduct of their business, but only when requested by the Branch or Branches wherein said dispute has arisen.

Membership consists of any individual or corporation engaged in wholesale distribution of the products of the [REDACTED] pursuant to the terms of a Distributor's agreement with said company.

Your organization operates a repair and maintenance facility to service distributors delivery vehicles. You also stated that you will negotiate quantity purchase discounts, including group rates on truck lease agreements, and insurance on leased trucks as well as to adjudicate disputes between members of the association.

Your sources of income in descending order are gross collections from check-off by company from distributors for financed leasing, insurance and maintenance shops, as well as membership dues, income from [redacted] toward operation of a repair facility, and interest income. The organization's disbursements are for the operation of the repair facility.

Section 501(c)(12) of the Code provides exemption to Benevolent Life Insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations, but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

In Revenue Ruling 65-201, 1965-2 C.B. 170, it is held that a non-profit cooperative organization whose activities consist of selling electrical materials equipment, and supplies and furnishing equipment manufacturing repairing testing, and other services to its members is not "a like organization" within the meaning of section 501(c)(12).

In Revenue Ruling 55-311, 1955-1 C.B. 72 it is held that a local association of employees which operates a bus for the convenience of members is not exempt under any section of the Code.

Your organization had failed to submit a complete application because you did not include a valid organizational document. Therefore, your organization is found not to be organized for exempt purposes within the scope of 501(c)(12) or any other section of the Code.

Because the major activity of the organization will be the operation of a maintenance facility on behalf of members and obtaining quantity purchase discounts, your organization is found to be operating for the convenience of members. Therefore, you are found not to be "a like organization" described in section 501(c)(12).

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(12) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P. O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,


District Director

cc: 

Enclosure: Publication 892