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Def. 902  
7/8/83

MAY 17 1983

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

Your organization is comprised exclusively of the franchised restaurants of [REDACTED]. Your purposes are to plan for, produce and coordinate advertising and marketing materials and programs (through newspaper, radio, television, and in-store items). The plans and materials are mailed to the Council members on a regular basis. The decisions regarding details of marketing and advertising activities are made by Board of Directors.

The [REDACTED]'s activities are supported through a continuing membership fee of [REDACTED]% of each month's gross sales of each [REDACTED] restaurant owned by [REDACTED] or owned by a franchisee who contracts to participate. All new franchisees are required to pay into the fund in their franchise agreements, and older franchisee agreements are persuaded to join on the basis that co-operative advertising is a more effective use of money than on an individual level.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of nonprofit 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 defines a business league as an association of persons having some common 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

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	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
SUB-NAME	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
DATE	5/4/83	5/4/83	5/16/83	5/16/83	5/16/83		

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.

Revenue Ruling 67-77, 1967-1 C.B. 138 held that an association of dealers selling a particular make of automobile which engaged in financing general advertising campaigns to promote the sale of that particular make was held not exempt because it was performing particular services for its members rather than promoting a line of business, i.e., the automotive industry as a whole.

In the case of National Muffler Dealers Association v. U.S., 440 U.S. 472 (1979), the Court held that an association of a particular brand name of muffler dealers does not qualify for exemption because the association is not engaged in the improvement of business conditions of a line of business.

In Rev. Ruling 58-294, 1958-1 C.B. 244 an association of licensed dealers in a certain type of patented product did not qualify as a business league where the association owned the controlling interest in the corporation holding the basic patent, was engaged mainly in furthering the business interests of its member-dealers, and did not benefit people who manufactured competing products of the same type covered by the patent. This revenue ruling states the position of the Internal Revenue Service in the Pepsi-Cola Bottlers' Association case. The Government in that case noted that the Association was not promoting a line of business but a particular brand, since the entire soft drink industry is the line of business.

Your situation is similar to the one in Revenue Ruling 67-77, cited above and to the rationale stated in the other revenue rulings mentioned. You are promoting [redacted] restaurants only and not the entire fast food restaurants industry. By pooling the resources and planning advertisements and promotional programs, you are performing a particular service for individual [redacted] owners in the ordinary course of their trade or business.

Accordingly, it is held that you are not entitled to recognition of exemption from Federal income tax under section 501(c)(6) of the Code. You are required to file Federal income tax returns on Form 1120 for each year you have been in existence.

We are not ruling on your qualification for exemption under any related provisions under IRC 501(c).

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[Redacted]

If you do not accept our findings, we recommend that you request a conference with the Office of Regional Director of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at our Regional office or, if you request, at any mutually convenient District office.

If we do not hear from you within 30 days from the date of this letter, this ruling will become final. If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

[Redacted]  
District Director

Encl. Pub 892

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