



Exempt Organizations Technical Guide

TG 6: Business Leagues – IRC Section 501(c)(6)

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I. Overview

- (1) This Technical Guide (TG) document discusses tax exemption of business leagues, chambers of commerce, real estate boards, and boards of trade described under Internal Revenue Code (IRC) Section 501(c)(6).

Note: This TG references General Counsel Memoranda (GCM). Although GCMs may not be used or cited as precedent, they do offer additional tax law analysis considerations when precedential guidance doesn't exist.

A. Background / History

- (1) The Sixteenth Amendment to the U.S. Constitution, ratified in February, 1913, permitted Congress to levy a tax on income. Eight months later, the Revenue Act of 1913, also known as the Underwood Tariff Act, provided for an income tax exemption on business leagues, chambers of commerce, and boards of trade. Tax exemption for business leagues has been part of U.S. tax law ever since and is now found in Section 501(c)(6). The evolution of the term "business league" or trade organization is thoroughly explained in *Natl. Muffler Dealers Assn. v. United States*, 440 US 472 (1979):

The exemption for "business leagues" from federal income tax had its genesis at the inception of the modern income tax system with the enactment of the Tariff Act of October 3, 1913, 38 Stat. 114, 172. In response to a House bill which would have exempted, among others, "labor, agricultural, or horticultural organizations," the Senate Finance Committee was urged to add an exemption that would cover nonprofit business groups. Both the Chamber of Commerce of the United States and the American Warehousemen's Association, a trade association for warehouse operators, submitted statements to the Committee. The Chamber's spokesman said:

"The commercial organization of the present day is not organized for selfish purposes, and performs broad patriotic and civic functions. Indeed, it is one of the most potent forces in each community for the improvement of physical and social conditions. While its original reason for being is commercial advancement, it is *not in the narrow sense of advantage to the individual, but in the broad sense of building up the trade and commerce of the community as a whole . . .*" (Emphasis added). Briefs and Statements on H. R. 3321 filed with the Senate Committee on Finance, 63d Cong., 1st Sess., 2002 (1913) (hereinafter Briefs and Statements).

The Chamber's written submission added:

"These organizations receive their income from dues . . . which business men pay that they *may receive in common with all other members of their communities or of their industries* the benefits of cooperative study of local development, of civic affairs, of industrial resources, and of local, national, and international trade."
(Emphasis added). *Id.*, at 2003.

The Committee was receptive to the idea, but rejected the Chamber's proposed broad language which would have exempted all "commercial organizations not organized for profit." Instead, the Committee, and ultimately the Congress, provided that the tax would not apply to "business leagues, nor to chambers of commerce or boards of trade, not organized for profit or no part of the net income of which inures to the benefit of the private stockholder or individual." Tariff Act of Oct. 3, 1913, § IIG (a), 38 Stat. 172.

Congress has preserved this language, with few modifications, in each succeeding Revenue Act.

The Commissioner of Internal Revenue had little difficulty determining which organizations were "chambers of commerce" or "boards of trade" within the meaning of the statute. Those terms had commonly understood meanings before the statute was enacted. "Business league," however, had no common usage, and in 1919 the Commissioner undertook to define its meaning by regulation. The initial definition was the following:

"A business league is an association of persons having some common business interest, which limits its activities to work for such common interest and does not engage in a regular business of a kind ordinarily carried on for profit. Its work need not be similar to that of a chamber of commerce or board of trade." Treas. Regs. 45, Art. 518 (1919).

This language, however, proved too expansive to identify with precision the class of organizations Congress intended to exempt. The Service began to cut back on the last sentence of the material just quoted when, in 1924, the Solicitor of Internal Revenue invoked *noscitur a sociis* to deny an exemption requested by a stock exchange. He reasoned that, while a stock exchange conceivably could come within the definitions of a "business league" or "board of trade," it lacked the characteristics that a "business league," "chamber of commerce," and "board of trade" share in common and

that form the basis for the exemption. Congress must have used those terms, he said, “to indicate organizations of the same general class, having for their primary purpose the promotion of business welfare.” The primary purpose of the stock exchange, by contrast, was “to afford facilities to a limited class of people for the transaction of their private business.” L. O. 1121, III-1 Cum. Bull. 275, 280-281 (1924). The regulation was then amended so as specifically to exclude stock exchanges. T. D. 3746, IV-2 Cum. Bull. 77 (1925).

In 1927, the Board of Tax Appeals, in a reviewed decision with some dissents, applied the principle of *noscitur a sociis* and denied a claimed “business league” exemption to a corporation organized by associations of insurance companies to provide printing services for member companies. *Uniform Printing & Supply Co. v. Commissioner*, 9 B. T. A. 251, aff’d, 33 F. 2d 445 (CA7), cert. denied, 280 U. S. 591 (1929). In 1928, Congress revised the statute so as specifically to exempt real estate boards that local revenue agents had tried to tax. The exclusion of stock exchanges, however, was allowed to remain.

In 1929, the Commissioner incorporated the principle of *noscitur a sociis* into the regulation itself. The sentence, “Its work need not be similar to that of a chamber of commerce or board of trade,” was dropped and was replaced with the following qualification:

“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 or to the promotion of the general objects of one or more lines of business as distinguished from the performance of particular services for individual persons.” Treas. Regs. 74, Art. 528 (1929).

This language has stood almost without change for half a century through several re-enactments and one amendment of the statute.

During that period, the Commissioner and the courts have been called upon to define “line of business” as that phrase is employed in the regulation. True to the representation made by the Chamber of Commerce, in its statement to the Senate in 1913, that benefits would be received “in common with all other members of their communities or of their industries,” *supra*, at 478, the term “line of business” has been interpreted to mean either an entire industry, see, e. g., *American Plywood Assn. v. United States*, 267 F. Supp. 830 (WD Wash. 1967); *National Leather & Shoe Finders Assn. v.*

Commissioner, 9 T. C. 121 (1947), or all components of an industry within a geographic area, see, e. g., *Commissioner v. Chicago Graphic Arts Federation, Inc.*, 128 F. 2d 424 (CA7 1942); *Crooks v. Kansas City Hay Dealers' Assn.*, 37 F. 2d 83 (CA8 1929); *Washington State Apples, Inc. v. Commissioner*, 46 B. T. A. 64 (1942).

See *Natl. Muffler Dealers Assn. v. United States*, 440 U.S. 472, 99 S. Ct. 1304, 59 L. Ed. 2d 519 (1979).

B. Relevant Terms

- (1) **Business League:** A business league, as defined by Treasury Regulation (Treas. Reg.) 1.501(c)(6)-1, 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.
- (2) **Trade Association:** A trade association, as defined by the U.S. Department of Commerce, is a nonprofit, cooperative, voluntarily-joined organization of business competitors designed to assist its members and its industry in dealing with mutual business problems.
- (3) **Line of Business:** A line of business, as defined by *Natl. Muffler Dealers Assn. v. United States*, 440 U.S. 472 (1979), is interpreted to mean either an entire industry or all components of an industry within a geographic area.
- (4) **Segment of a Line of Business:** Organizations that help provide a competitive advantage to a business and to its customers at the expense of competitors and their customers may be promoting a segment of a line of business rather than a line of business. See Rev. Rul. 83-164.
- (5) **Particular Service:** A particular service for individual members includes any particular activity or service performed by an organization which does not inure to the benefit of all its members generally and which would otherwise have to be done by or for the member in order for the member to properly perform their business." See *S. Hardwood Traffic Ass'n v. United States*, 283 F. Supp. 1013 (W.D. Tenn. 1968).

C. Law / Authority

- (1) Section 501(a) says, in part, an organization described in subsection (c) shall be exempt from taxation. Section 501(c)(6) then provides for exemption for:

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.

- (2) Treas. Reg. 1.501(c)(6)-1 provides a fuller definition of Section 501(c)(6) organizations with the following:

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. An association engaged in furnishing information to prospective investors, to enable them to make sound investments, is not a business league, since its activities do not further any common business interest, even though all of its income is devoted to the purpose stated. A stock or commodity exchange is not a business league, a chamber of commerce, or a board of trade within the meaning of section 501(c)(6) and is not exempt from tax. Organizations otherwise exempt from tax under this section are taxable upon their unrelated business taxable income. See part II (Section 511 and following), subchapter F, chapter 1 of the Code, and the regulations thereunder.

II. Exemption Requirements

A. Association of Persons

- (1) Treas. Reg. 1.501(c)(6)-1 establishes the requirement for a Section 501(c)(6) business league to be an association of persons having some common business interest. To determine whether an organization meets this requirement, three component requirements should be considered:
- a. whether there is an association,
 - b. whether there is a common business interest, and
 - c. whether there is a bona fide membership.
- (2) Failure to meet one of these components affects whether the organization meets this requirement and whether it qualifies for exemption under Section 501(c)(6).

- (3) To meet the association of persons having a common business interest requirement, there must be an association. An association, or league, for purposes of Section 501(c)(6) possesses three characteristics:
- a. There is an agreement or covenant between two or more parties or persons for the accomplishment of some purpose. See *Associated Industries of Cleveland v. Commissioner*, 7 T.C. 1449 (1946) acq. 1947-1 C.B. 1.
 - b. Membership is voluntary and open. See Rev. Rul. 73-411, 1973-2 C.B. 180.
 - c. It has a meaningful extent of membership support. Consider GCM 39108 (1982).
- (4) The first two points cite precedential guidance and can be objectively measured. The third point cites nonprecedential guidance and is more subjective.
- (5) The nonprecedential guidance in GCM 39108 explains that a Section 501(c)(6) organization is a membership organization characteristically supported by dues. (See also the discussion of bona fide membership below.) While such an organization may receive a substantial portion or even the primary part of its income from non-member sources, membership support, both in the form of dues and involvement in the organization's activities, must be at a meaningful level. To assess that meaningful level, consider the following:
- a. Any income derived from the performance of the organization's exempt functions or from substantially-related activities should be treated as membership support.
 - b. Contributions or gifts from the general public should be treated as membership support.
 - c. Unrelated income should be excluded in measuring the extent of membership support.
- (6) Rev. Rul. 66-222, 1966-2 C.B. 223 describes an organization whose income derives from fees from an activity that furthers its exempt purpose and provides a meaningful extent of membership support. This organization is described in Section 501(c)(6) even though it has no income from member dues.
- (7) Another consideration regarding the extent of meaningful membership support is the term "member." Dues support isn't automatically considered membership support simply because it is labeled as from a member. See the discussion on bona fide membership below. A principal purpose test is used to determine whether a particular class of dues income will be subject to unrelated business income tax provisions. See Rev. Proc. 97-12, 1997-1 C.B. 631, which amplified, in part, and modified, in part, Rev. Proc. 95-21, 1995-1 C.B. 686.

B. Common Business Interest

- (1) To meet the association of persons having a common business interest requirement, the makeup of membership must primarily share some common business interest. A valid shared common business interest should possess the following characteristics:
 - a. The interest is in business as opposed to an interest other than business. See *American Kennel Club, Inc. v. Hoey*, 148 F.2d 920 (2d Cir. 1945).
 - b. The interest in business is at a common or general level of business. It should be an interest directed to the improvement of business conditions of one or more lines of business, rather than to promote the private interests of its members. Furthermore, since a common business interest is a requirement for exemption under Section 501(c)(6), it is important to ascertain what the “business” is.
- (2) The opinion in *Crooks v. Kansas City Hay Dealers’ Ass’n*, 37 F.2d 83 (8th Cir. 1929) states:

‘Business’ is defined in Black’s Law Dictionary as follows:
“‘Business’ is a very comprehensive term and embraces everything about which a person can be employed,’ which definition is approved by the Supreme Court in *Flint v. Stone Tracy Co.*, 220 U.S. 107 (1911).”
- (3) In *Flint*, the Supreme Court additionally defined business as “[t]hat which occupies the time, attention and labor of men for the purpose of a livelihood or profit.” Thus, the term “business” is construed broadly and includes almost any enterprise or activity conducted for remuneration or profit.
- (4) Some examples of members sharing a common business interest include the following:
 - a. A board is formed by members of the medical profession to improve the quality of medical care available to the public and to establish and maintain high standards of excellence in a particular medical specialty. The board’s activities include devising and administering written examinations and issuing certificates to successful candidates in the medical specialty. Listings of the certified physicians are made available by the board to various medical groups who in turn make the listings available to the public. The organization is promoting the common business interest of the physicians and is exempt under Section 501(c)(6). See Rev. Rul. 73-567, 1973-2 C.B. 178.
 - b. An organization formed to stimulate the development and free interchange of information pertaining to systems and programming of electronic data processing equipment qualifies under Section 501(c)(6). The membership is composed of representatives of diversified businesses that own, rent, or lease one or more digital computers produced by various manufacturers. Semi-annual conferences open to the general public are held at which

operational and technical problems are discussed. Here the common business interest of the members of the organization is their common business problems concerning the use of digital computers. The activities of this organization provide a forum for the exchange of information that will lead to the more efficient use of computers by members and other interested users, and thus improve the overall efficiency of the business operations of each. See Rev. Rul. 74-147, 1974-1 C.B. 136.

- c. An organization formed by members of a state medical association to operate peer review boards qualifies for exemption under Section 501(c)(6). Its primary purpose of establishing and maintaining standards for quality, quantity, and reasonableness of costs of medical services serve to maintain the professional standards, prestige and independence of the medical profession and thereby further the common interest of the organization's members. See Rev. Rul. 74-553, 1974-2 C.B. 168.
 - d. An organization formed as a membership organization of business and professional women that promotes the acceptance of women in business and the professions qualifies for exemption under Section 501(c)(6). By sponsoring events devoted to the discussion and consideration of problems affecting women in business and the professions, the organization is promoting a common business interest. To the extent that the organization achieves its goal of improving opportunities for and attitudes toward women, it improves conditions in each of the industries or lines of business from which its members are drawn. See Rev. Rul. 76-400, 1976-2 C.B. 153.
- (5) Some examples of members not sharing a common business interest include the following:
- a. 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 aren't directed to the improvement of one or more lines of business, but rather to the promotion of private interests of its members. See Rev. Rul. 59-391, 1959-2 C.B. 151. Distinguished by Rev. Rul. 70-461, 1970-2 C.B. 119
 - b. Hobbies are activities that aren't conducted as businesses. Organizations that promote the common interest of hobbyists don't qualify under Section 501(c)(6). An association of dog owners, most of whom were not in the business of raising and selling dogs, was found not to further a common business interest. See *American Kennel Club, Inc. v. Hoey*, 148 F.2d 920 (2nd Cir. 1945).

C. Is There a Bona Fide Membership

- (1) To meet the association of persons having a common business interest requirement, the makeup of the membership must primarily consist of bona fide,

or genuine, members. In other words, the individual bona fide members must comprise the primary component of total members. To make that assessment, it's necessary to define what constitutes a bona fide member.

- (2) The code and regulations do not expressly define the term "member" for purposes of Section 501(c)(6), although there is case law providing guidance on identifying bona fide members.
- (3) In *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333 (1977), the Supreme Court described the indicia of organization membership. Those factors of membership include the following:
 - a. Electing the members of the governing body
 - b. Being able to serve on the governing body, and
 - c. Financing the organization's activities.
- (4) In *National Association of Life Underwriters, Inc. v. Commissioner*, 64 T.C.M. 379 (1992), the Tax Court provided guidance on how "membership or similar status" should be interpreted. The Tax Court stated a member possesses the following characteristics:
 - a. A member has specified rights and obligations in relation to an organization.
 - b. A member has the right to participate in the organization's direction.
 - c. A member has the obligation to help support the organization through regular financial contributions.

The Tax Court also stated all the facts and circumstances, including the organization's charter and bylaws, may be consulted in determining what those rights and obligations are.

- (5) In *National Association of Life Underwriters* the Tax Court further stated, "labels are not determinative; a person's status will determine whether that person will be considered a member of an organization." Because labels aren't determinative, it's important to consider the factors of bona fide membership.

D. Purpose Must Promote Common Business Interest

- (1) Treas. Reg. 1.501(c)(6)-1 establishes the requirement that a Section 501(c)(6) business league must promote some common business interest. This requirement focuses on the organization's common business interest rather than the common business interest of the association members individually. It's also worth noting this requirement is focused on the organization's purpose rather than the activities conducted by the organization.
- (2) On the surface, it may be difficult to distinguish the members' common business interest, the organization's purpose, and the organization's activities from each other. As noted above, the courts have stated these requirements are each distinct. To distinguish this purpose requirement from the others, three Tax Court opinions provide some guidance.

- (3) *Associated Master Barbers & Beauticians, Inc. v. Commissioner*, 69 T.C. 53 (1977); *American Automobile Association v. Commissioner*, 19 T.C. 1146 (1953); and *Associated Industries of Cleveland v. Commissioner*, 7 T.C. 1449 (1946), acq. 1947-1 C.B. 1, are three cases that analyze compliance with each requirement individually. For this requirement, the Tax Court examined the language of the organizations' governing documents to determine whether its purpose promoted a common business interest.
- (4) In *Associated Master Barbers*, the Tax Court found the language of the governing documents established the purpose of the organizations was to promote a common business interest. In *American Automobile Association*, the Tax Court noted how provisions in the governing documents resulted in the organization's failure to meet the requirement.
- (5) Some examples of organizations whose purpose is to promote a common business interest include the following:
- a. An organization formed to promote the commercial fishing industry in a particular state through the publication and dissemination of a newspaper that contains news of events of interest to the fisherman and new techniques and advances in the commercial fishing industry qualifies under Section 501(c)(6). The activities of the organization are directed toward the betterment of the conditions of those engaged in commercial fishing. By operating in the manner described, it is promoting the common business interest of fishermen. See Rev. Rul. 75-287, 1975-2 C.B. 211.
 - b. An organization composed of persons studying for a degree in a particular profession may qualify under Section 501(c)(6). Even though the students aren't persons engaged in a business, the purpose of the organization is to promote their common interests as future members of that profession. See Rev. Rul. 77-112, 1977-1 C.B. 149.
 - c. A trust established for the purpose of monitoring and coordinating business league activities of its member business leagues and collecting, administering, and distributing funds to the member business leagues for league purposes is exempt under Section 501(c)(6). The trust was created pursuant to collective bargaining agreements between a labor union and several business leagues, which promote the home building industry in a particular geographic area. See Rev. Rul. 82-138, 1982-2 C.B. 106.
 - d. An example of an organization whose purpose isn't to promote a common business interest is *American Automobile Association v. Commissioner*, 19 T.C. 1146 (1953). In this case, the organization was held not to be exempt as a business league under Section 501(c)(6). This organization was a national association composed of individual automobile owners and affiliated auto clubs. Notwithstanding its broad purposes to improve highway traffic safety and to educate the public in traffic safety, its principal activities were determined to consist of securing benefits and performing particular services for members.

E. Not Organized for Profit

- (1) Section 501(c)(6) organizations are required to be “not organized for profit.” It is worth noting the “not organized for profit” requirement appears closely related to the “not to engage in a regular business of a kind ordinarily carried on for profit” and “no part of the net earnings of which inures to the benefit of any private shareholder or individual” requirements, however, they are distinct from one another.
- (2) For this requirement, consider the language of an organization’s governing documents to determine whether those documents establish that it is not organized for profit. That assessment is distinct from whether its activity is conducted for profit or whether any net earnings result in private benefit.
- (3) This requirement prohibits a Section 501(c)(6) organization from authorizing issuance of shares of stock that carry the right to dividends. This requirement does not mean a Section 501(c)(6) organization can’t have net earnings in the form of an excess of income over expenses.
- (4) The distribution of net earnings during the life of an organization differs from the distribution of net earnings upon the organization’s dissolution. A provision in an organization’s charter providing for the distribution of assets to its members in the event of dissolution won’t in itself preclude exemption. See *Crooks v. Kansas City Hay Dealers’ Ass’n.*, 37 F.2d 83 (8th Cir. 1929).

F. Not Engaged in Regular Business Conducted for Profit

- (1) Treas. Reg. 1.501(c)(6)-1 establishes the requirement that a Section 501(c)(6) business league shouldn’t engage in a regular business of a kind ordinarily carried on for a profit.
- (2) *Retailers Credit Ass’n of Alameda County v. Commissioner*, 90 F.2d 47 (9th Cir. 1937), provides some guidance on interpreting this requirement. The opinion states, “[i]f an association is a business league, and has proper purposes without prohibited ones, then, if it operates in conformity to the statute and regulations construing it, the association is entitled to exemption.” Notice the court describes two conditions that need to be met.
 - a. The first condition considers two aspects of the language of the organization’s governing documents. The first aspect is whether the organization has a proper purpose. A proper purpose promotes a common business interest as described above.
 - b. The second aspect is whether the organization has a prohibited purpose. A prohibited purpose expressly authorizes the organization to conduct a regular business of a kind ordinarily carried on for profit.
- (3) If the organization meets the two aspects of the first condition, the second condition considers whether the activities, or operations, of the organization comply with the statute and regulations. *Retailers Credit Ass’n* provides:

The statute as interpreted by the regulations say that the purpose

of the business league must not be “to engage in a regular business of a kind ordinarily carried on for profit.” We believe that the proper interpretation of that rule is that, if the purpose to engage in such a business is only incidental or subordinate to the main or principal purposes required by statute, then exemption cannot be denied on the ground that the purpose is to engage in such a business.

- (4) Retailers Credit Ass’n further provides: “[i]n determining when a purpose to engage in a regular business of a kind ordinarily carried on for profit is merely incidental or subordinate, each case must stand on its own facts. No rigid rules may be established as a gauge.” In other words, the facts and circumstances determine whether the organization isn’t primarily engaged in a regular business of a kind ordinarily conducted for a profit.
- (5) *Associated Master Barbers & Beauticians, Inc. v. Commissioner*, 69 T.C. 53 (1977) illustrates how facts and circumstances are reviewed to make this determination. In this case, the court reviewed the persuasive financial data and the substantial amount of time devoted to the business activity in concluding it was substantial and not merely incidental.
- (6) An organization engaging in business activities is exempt under Section 501(c)(6) only when it can be determined that such activities don’t constitute its primary activity. Examples of organizations not engaged in a regular business of a kind ordinarily conducted for a profit and found to be exempt under Section 501(c)(6) include:
 - a. A chamber of commerce operating a credit bureau as one of its fifteen departments. See *Milwaukee Ass’n of Commerce v. United States*, 72 F. Supp. 310 (E.D. Wisc. 1947).
 - b. A chamber of commerce developing an industrial park to attract new industry to the community. See Rev. Rul. 70-81, 1970-1 C.B. 131, Rev. Rul. 81-138, 1981-1 C.B. 358.
 - c. An organization of insurance agents collecting commissions on municipal insurance placed through its members. See *King County Insurance Association v. Commissioner*, 37 B.T.A. 288 (1938), acq. 1938-1 C.B. 17.
 - d. A sports promotion organization selling television rights to tournaments it conducts as its primary source of support. See Rev. Rul. 80-294, 1980-2 C.B. 187. This revenue ruling clarifies Rev. Rul. 58-502, 1958-2 C.B. 271 to remove the implication that the sale of broadcasting rights to an organization’s tournaments furthers Section 501(c)(6) purposes only when the amount of the income derived therefrom is insignificant in amount.

- (7) Examples of organizations engaged in a regular business of a kind ordinarily conducted for a profit and found not to be exempt under Section 501(c)(6) include:
- a. An organization testing the safety of electrical products for commercial enterprises. See *Underwriters' Laboratories, Inc. v. Commissioner*, 135 F.2d 371 (7th Cir. 1943).
 - b. An organization selling credit information and collection services. See *Credit Bureau of Greater New York, Inc. v. Commissioner*, 162 F.2d 7 (2nd Cir. 1947).
 - c. An organization operating as an employment agency. See *American Association of Engineers Employment, Inc. v. Commissioner*, 11 T.C.M. 207 (1952) *aff'd*, 204 F.2d 19 (7th Cir. 1953).
 - d. An automobile association providing commercial towing for its members. See *American Automobile Association v. Commissioner*, *above*.
 - e. A board of trade that provides members and nonmembers with laboratory services is not exempt because its principal activity and only source of income is from a business of a kind ordinarily carried on for profit. See *Rev. Rul. 78-70*, 1978-1 C.B. 159.
 - f. An organization providing insurance for its members or other individuals, except in very limited instances, is considered to be providing an economy or convenience in the conduct of members' businesses. It relieves the members of obtaining insurance on an individual basis or is engaged in a regular business of a kind ordinarily carried on for profit. Neither an association of insurance companies that provides malpractice insurance to health care providers nor an association of insurance companies that accepts for reinsurance high-risk customers who would ordinarily be turned down by member companies is exempt under Section 501(c)(6). See *Rev. Rul. 81-174*, 1981-1 C.B. 335, and *Rev. Rul. 81-175*, 1981-1 C.B. 337. The organizations described in these revenue rulings are distinguishable from the one described in *Rev. Rul. 71-155*, 1971-1 C.B. 152, which doesn't assume the risk on a policy and therefore isn't itself engaged in the insurance business. Also, distinguishable is *Rev. Rul. 73-452*, 1973-2 C.B. 183, wherein an organization created under state statute to pay claims against insolvent fire and casualty insurance companies qualifies for exemption as a business league under Section 501(c)(6).
- (8) When business activities also benefit an organization's members by providing them with goods or services, such activities may also constitute the performance of particular services for individual persons and thus preclude exemption if such activities are the organization's primary activities.

G. Improvement of Business Conditions as Opposed to Performance of Services

- (1) The previously discussed requirements analyzed the first sentence in Treas. Reg. 1.501(c)(6)-1: “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.”
- (2) The regulation goes on to state: “It is an organization of the same general class as a chamber of commerce or board of trade” and “[t]hus, 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.”

G.1. Improvement of Business Conditions

- (1) In order to establish the improvement of a business condition, the meaning of “chamber of commerce” and “board of trade” needs to be considered. The meaning of those terms help defines what “improvement of business conditions” means.
- (2) *Crooks v. Kansas City Hay Dealers’ Ass’n.*, 37 F.2d 83 (8th Cir. 1929) defines a chamber of commerce as “a society of the principal merchants and traders of a city who meet to promote the general trade and commerce of the place.” It defines a board of trade as “a body... appointed for the advancement and protection of business interests.” Rev. Rul. 73-411, 1973-2 C.B. 180, provides, “a chamber of commerce or board of trade must be one whose efforts are directed at promoting the common economic interests of all the commercial enterprises in a given trade community.” The ideas “general trade” and “common economic interests” may be applied to the concept of “improvement of business conditions.” The regulations don’t state that a business league must promote the betterment of general commercial welfare. See Rev. Rul. 59-391, 1959-2 C.B. 151.
- (3) The regulations require the activities of the organization improve conditions of one or more lines of business. See Rev. Rul. 59-391. Additionally, the organization’s principal or primary activities must meet the requirement. See *Associated Master Barbers, Evanston-North Shore Bd. of Realtors, and Retailers Credit Ass’n*, mentioned above.
- (4) To illustrate how activities improve business conditions, consider two contrasting revenue rulings:
 - a. In Rev. Rul. 67-295, 1967-2 C.B. 197 an organization composed of businessmen is exempt where its activities were limited to holding luncheon meetings devoted to discussions of various problems in a particular industry directed to the improvement of business conditions as a whole.

- b. In Rev. Rul. 70-244, 1970-1 C.B. 132 an organization of business and professional persons of a community, providing luncheon and bar facilities for its members, but having no specific program directed to the improvement of business conditions doesn't qualify under Section 501(c)(6).
 - c. The distinction is the exempt organization actively organized activities to discuss business conditions while the nonexempt organization didn't organize activities involving the improvement of business conditions.
- (5) Whether the activities of a business league lead to real and permanent improvement of business conditions is immaterial as long as reasonable prudent businessmen believe they'll improve business conditions. See *Associated Industries of Cleveland v. Commissioner*, mentioned above.
- (6) To help illustrate what it means to direct an activity toward the improvement of business conditions, consider the distinction between legislative activities and political campaign intervention activities.
 - a. For legislative activity, the content of specific legislative proposals can be readily identified and related to the business interests of an organization seeking exemption under Section 501(c)(6). An organization which is exclusively engaged in support of legislative proposals germane to business interests would thereby confine its activities to the improvement of business conditions. See Rev. Rul. 61-177, 1961-2 C.B. 117.
 - b. Conversely, support of or opposition to a candidate for public office necessarily involves the organization in political campaign intervention. That involvement is broader than the business interest of an organization described in Section 501(c)(6). If the primary purpose or activity of an organization is to engage in political action, then it isn't organized primarily as a business league and can't qualify for exemption under Section 501(c)(6). However, if the primary purpose and activities of an organization otherwise qualify it under Section 501(c)(6), then participation in political activities won't disqualify it from exemption. Thus, an organization whose primary activity is directed to influencing legislation, which is germane to the interests of the organization, wouldn't be disqualified if it incidentally engaged in political activity. Consider GCM 34233 (1969). For legislative and political campaign interventions activities conducted by an IRC Section 501(c)(6) organization, there are additional compliance issues that apply. See Other Considerations section below.
- (7) Examples of activities that improve business conditions and don't constitute the performing of particular services for individual members include:
 - a. An organization presenting information, trade statistics, and group opinions to government agencies and bureaus. See *American Refractories Institute v. Commissioner*, 6 T.C.M. 1302 (1947), and *Atlanta Master Printers Club v. Commissioner*, 1 T.C.M. 107 (1942).

- b. An organization promoting the members' line of business by publishing statistics on business conditions in the industry based on data reported by members on specific forms, which members also use in the analysis of their own operations. See Rev. Rul. 68-657, 1968-2 C.B. 218.
- c. An organization promoting the common business interests of members through advocacy of the open shop principle. See *Associated Industries of Cleveland v. Commissioner*, 7 T.C. 1449, at 1465 (1946); acq., 1947-1 C.B. 1.
- d. An organization maintaining a nonprofit lawyer referral service aimed at improving the image and functioning of the legal profession rather than being just a business referral service for its members. See Rev. Rul. 80-287, 1980-2 C.B. 185.

G.2. Line or Lines of Business

- (1) In *National Muffler Dealers Ass'n, Inc. v. United States*, 440 U.S. 472 (1979), the Supreme Court defined "line of business" as used in the regulation, to mean either an entire industry or all components of an industry within a geographic area.
- (2) The Supreme Court additionally noted exemption has been consistently denied by the Internal Revenue Service to business groups whose membership and purposes are narrower than those that meet the "line of business" test. This is because they fail to benefit either an entire industry or all components of an industry within a geographic area. Examples of those denied exemption for failure to meet the "line of business" test include those that bottle a single brand of soft drink, market a single brand of automobile, or have licenses to a single patented product. Complimenting the analysis of *National Muffler Dealers Ass'n, Inc.*, Rev. Rul. 83-164, 1983-2 C.B. 95, noted organizations that failed to meet the line of business test were found to have served only a "segment of a line." In the ruling, the failed groups promoted segments of an industry at the expense of others in the industry.
- (3) For additional guidance regarding line of business versus segment of a line, consider the following:
 - a. *American Plywood Assn. v. United States*, 267 F. Supp. 830 (W.D. Wash. 1967)
 - b. *National Leather & Shoe Finders Assn. v. Commissioner*, 9 T.C. 121 (1947); acq., 1947-2 C.B. 3
 - c. *Commissioner v. Chicago Graphic Arts Federation, Inc.*, 128 F.2d 424 (7th Cir. 1942)
 - d. *Crooks v. Kansas City Hay Dealers' Assn.*, 37 F.2d 83 (8th Cir. 1929)
 - e. *Washington State Apples, Inc. v. Commissioner*, 46 B. T. A. 64 (1942); acq., 1942-1 C.B. 17
 - f. Rev. Rul. 58-294, 1958-1 C.B. 244

- g. Rev. Rul. 67-77, 1967-1 C.B. 138
 - h. Rev. Rul. 68-182, 1968-1 C.B. 263
- (4) A “segment of a line” isn’t limited to a specific product or brand within a line of business. A segment of a line also includes the users of a product or brand. When an organization limits its activities to the users of a specific product, it helps to provide a competitive advantage to that producer and to its customers at the expense of competitors and their customers that may use other brands of the specific product. In this instance, the organization’s activities aren’t directed towards the improvement of business conditions in one or more lines of business.
- a. See Rev. Rul. 83-164, above.
 - b. See *National Prime Users Group, Inc. v. U.S.*, 667 F. Supp. 250 (D. Md. 1987).
 - c. See *Guide International Corporation v. U.S.*, 948 F.2d 360 (7th Cir 1991).
 - d. Contrast Rev. Rul. 74-147, 1974-1 C.B. 136.
- (5) Regarding “a line or lines” of business, there is no limit on the number of lines of business that may be represented by one organization. A chamber of commerce represents all the lines of business in a given trade area to fulfill this requirement as all the lines of business within the area it encompasses are included. See *Retailers Credit Ass’n of Alameda County v. Commissioner*, 90 F.2d 47 (9th Cir. 1937).
- (6) Examples of organizations not qualifying for exemption under Section 501(c)(6) because they only served a segment business and not a line of business include:
- a. An association of licensed dealers of a certain type of patented product where the association owns the controlling interest in a corporation holding the basic patent. The organization is engaged mainly in furthering the business interests of its member-dealers, and doesn’t benefit people who manufacture competing products of the same type covered by the patent. See Rev. Rul. 58-294, 1958-1 C.B. 244.
 - b. An association of dealers selling a particular make of automobile that engages in financing general advertising campaigns to promote the sale of that make isn’t exempt because it is performing particular services for its members rather than promoting a line of business; i.e., the automotive industry as a whole. See Rev. Rul. 67-77, 1967-1 C.B. 138.
 - c. An organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer. This organization is distinguishable from the one described in Rev. Rul. 74-147, 1974-1 C.B. 136. While members of both organizations have a common business interest concerning the use of computers, the organization in Rev. Rul. 74-147 directs its activities to users of computers made by diverse and competing manufacturers, while

this organization directs its activities to users of computers made by one manufacturer. See Rev. Rul. 83-164, 1983-2 C.B. 95.

- (7) In *National Muffler Dealers Ass'n, Inc. v. United States*, 440 U.S. 472 (1979) the Supreme Court held that an association of a particular brand name of muffler dealers didn't qualify for exemption because the association wasn't engaged in the improvement of a business condition of a line of business. This effectively settled a question raised in *Pepsi-Cola Bottlers' Association, Inc. v. United States*, 369 F.2d 250 (7th Cir. 1966), where the court held an association of the bottlers of a particular brand of soft drink was promoting a line of business. The government had contended that it wasn't promoting a line of business since the entire soft drink industry rather than a particular brand was the line of business. The Service then reiterated its position in Rev. Rul. 68-182, 1968-1 C.B. 263.
- (8) In *Bluetooth SIG Inc. v. United States*, 611 F.3d 617 (9th Cir. 2010), the court held an organization holding the rights to technology and trademark to a single product didn't create a line of business.

G.3. Performance of Particular Services for Individuals

- (1) If an organization's activities are primarily directed at improving business conditions for one or more lines of business, the organization will satisfy this requirement. If the activities are primarily the performance of particular services for individual persons, the organization will fail to satisfy this requirement.
- (2) In general, a particular service is an activity that serves as a convenience or economy to individual members in the operation of their businesses. A particular service assists members in the pursuit of their individual business rather than advancing the members' interests generally, by virtue of their membership in the industry. See *MIB, Inc. v. Commissioner*, 734 F.2d 71 (1st Cir. 1984).
- (3) There are several factors that help indicate an activity is a particular service:
 - a. Whether the activity is directly related to the members' businesses or is merely an extension of those businesses. Revenue rulings addressing this type of activity include:
 - Rev. Rul. 74-308, 1974-2 C.B. 168 which describes an organization whose principal activity is providing a telephone answering service to distribute calls for towing services on a rotational basis to its member tow truck owners and operators.
 - Rev. Rul. 70-591, 1970-2 C.B. 118 which describes an organization of commercial banks that provides and promotes a credit card plan for member banks.
 - Rev. Rul. 68-264, 1968-1 C.B. 264 which describes a traffic bureau that arranges shipping and billing for a fee.
 - b. Whether the activity is generally something the members could do for themselves. The activities described above (providing a telephone service,

providing and promoting a credit card plan, or operating a traffic bureau), are activities that member businesses would otherwise have to perform or pay to have performed in the ordinary course of business. These activities are merely methods of providing necessary business activities cheaper than they could be performed by the individual members. Additional law and guidance addressing this type of activity include:

- Rev. Rul. 71-175, 1971-1 C.B. 153, describing a telephone answering service operated for member doctors.
- Rev. Rul. 68-265, 1968-1 C.B. 265, describing a credit information bureau operated for members.
- United States v. Oklahoma City Retailers Association, 331 F. 2d 328 (10th Cir. 1964), describing another credit information bureau operated for members.

c. Whether the activity is a convenience or economy. This depends on whether each member's contribution is in proportion to what is received and is most commonly implicated where the activity is conducted as a business and members pay for the goods or services as they are received. See the following court cases:

- Evanston-North Shore Board of Realtors v. United States, 320 F.2d 375 (Ct. Cl. 1963);
- Carolinas Farm & Power Equipment Dealers Ass'n, Inc. v. United States, 699 F.2d 167(4th Cir. 1983) (rebates from insurance fund maintained by organization unrelated business taxable income);
- Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir.1973), cert. denied, 419 U.S. 827 (1974).

(4) In contrast to an activity being a particular service, there are several factors that help indicate that an activity provides an industry-wide benefit and thus is directed to the improvement of business conditions of one or more lines of business:

a. The activity is one for which individual members couldn't be expected to bear the expense and lends itself to cooperative effort. For example, in Rev. Rul. 67-175, 1967-1 C.B. 139, an organization of growers and processors of agricultural products that subsidized a lawsuit instituted by one of its members to prevent air pollution in the area served by the organization was held to qualify for exemption under Section 501(c)(6). Although the lawsuit could be undertaken by an individual grower, or processor, its purpose, which is to improve conditions for all growers and processors in the area, lends itself to a cooperative effort. Also, it isn't reasonable to expect one business to bear the cost of an activity that benefits the entire industry.

- b. Another characteristic of activities that don't provide a convenience or economy is the benefits are intangible and only indirectly related to the individual businesses. In other words, the benefits aren't susceptible to being priced. The lawsuit described above is an example of an intangible benefit. The industry-wide advertising campaign of the organization described in Rev. Rul. 55-444, 1955-2 C.B. 258, also provides an intangible benefit.
- (5) There is a good deal of guidance available on the subject of performance of particular services for members and advertising activities. Whether advertising activities constitute performance of services for members depends on the facts and circumstances.
- (6) Advertising promoting the names of members generally constitutes the performance of particular services for members. Examples of this type of advertising include the following:
 - a. An association of the merchants in a particular shopping center whose advertising material contained the names of the individual merchants. See Rev. Rul. 64-315, 1964-2 C.B. 147.
 - b. An association created to attract tourists to a local area, but whose principal activity is the publication of a yearbook consisting largely of paid advertisements by its members. See Rev. Rul. 65-14, 1965-1 C.B. 236.
 - c. An association that published catalogues that listed only products manufactured by the members. See *Automotive Electric Association v. Commissioner*, 168 F.2d 366 (6th Cir. 1948).
 - d. A nonprofit trade association of manufacturers, whose principal activity is the promotion of its members' products under the association's required trademark. See Rev. Rul. 70-80, 1970-1 C.B. 130. Contrast with *American Plywood Association* (see below).
 - e. A shopping center merchants' association whose membership is restricted to, and required of, the tenants of a one-owner shopping center and their common lessor and whose activities include promotional affairs and advertising to publicize the center. These don't qualify as a business league or chamber of commerce under Section 501(c)(6) because these activities are directed to promoting the general business interest of its members only, rather than of the industry as a whole. See Rev. Rul. 73-411, 1973-2 C.B. 180.
- (7) In contrast, advertising for the industry as a whole is directed at the improvement of business conditions for the line of business as opposed to the performance of particular services to members. Examples of this type of advertising include the following:
 - a. An association of apple growers engaged in promoting the sale of apples grown in the state was held exempt since its purpose was to promote the industry as a whole and not members of the organization and to improve a line of business, even though its benefits were limited to a particular

geographic area. See *Washington State Apples, Inc. v. Commissioner*, 46 B.T.A. 64 (1942), acq., 1942-1 C.B. 17.

- b. An organization formed to promote the business of a particular industry and conducts a general advertising campaign to encourage the use of products and services of the industry as a whole is exempt. This organization did have an incidental amount of advertising with members' names that didn't adversely affect qualification. See Rev. Rul. 55-444, 1955-2, C.B. 258.
 - c. An association of plywood manufacturers owned a trademark licensed for use only by its members. Advertising sponsored by the association didn't contain the names of individual manufacturers but did refer to the trademark. The court found the trademark was analogous to the industrywide advertising approved in *Washington State Apples, Inc. v. Commissioner*, and the trademark was only an incidental part of the advertising, which extolled the virtues of plywood in general. See *American Plywood Association v. United States*, 267 F. Supp. 830 (W.D. Wash. 1967).
 - d. The publication of ordinary commercial advertising for products and services used by the legal profession in a bar association's journal is unrelated trade or business under Section 513 because it is commercial in nature and doesn't contribute importantly to the association's exempt purposes. The publication of legal notices, however, promotes the common interests of the legal profession and thus isn't an unrelated trade or business under Section 513. See Rev. Rul. 82-139, 1982-2 C.B. 108.
- (8) Other activities that are considered the performance of particular services to members include the following:
- a. Commodity and stock exchanges serving their members as a convenience and economy in buying and selling. See Treas. Reg. 1.501(c)(6)-1.
 - b. An organization formed to sell advertising in its members' publications. See Rev. Rul. 56-84, 1956-1 C.B. 201.
 - c. An organization promoting the publication of its members' writings. See Rev. Rul. 57-453, 1957-2 C.B. 310.
 - d. An organization facilitating the purchase of supplies and equipment and to supply management services for their members. See Rev. Rul. 66-338, 1966-2 C.B. 226; *Indiana Retail Hardware Association, Inc. v. United States*, 177 Ct. Cl. 288 (1966); and *Uniform Printing & Supply Co. v. Commissioner*, 33 F.2d 445 (7th Cir. 1929).
 - e. A nurses' registry controlled and financed by participating nurses that assigns nurses to jobs. See Rev. Rul. 61-170, 1961-2 C.B. 112.
 - f. A real estate board primarily operating a multiple listing service for its members. See Rev. Rul. 59-234, 1959-2 C.B. 149; and *Evanston-North Shore Board of Realtors v. United States*, 320 F.2d 375 (Ct. Cl. 1963).

- g. An organization conducting a trading stamp plan whereby patrons of members receive trading stamps redeemable for merchandise at local stores. See Rev. Rul. 65-244, 1965-2 C.B. 167.
- h. An organization primarily operating a parking stamp plan whereby patrons of its members are afforded parking privileges while shopping at members' stores. See Rev. Rul. 64-108, 1964-1 (Part 1) C.B. 189.
- i. An organization operating a laundry and dry-cleaning plant for its members who were in the laundry business. See *A-1 Cleaners and Dyers Co. v. Commissioner*, 14 B.T.A. 1314 (1929).
- j. An organization operating a cold storage warehouse for its members on a cooperative basis. See *Growers Cold Storage Warehouse Co. v. Commissioner*, 17 B.T.A. 1279 (1929).
- k. A traffic bureau arranging shipments and billings for a fee. See Rev. Rul. 68-264, 1968-1 C.B. 264.
- l. An organization of florists promoting the exchange of orders by wire among its members. See *Florists Telegraph Delivery Association, Inc. v. Commissioner*, 47 B.T.A. 1044 (1942).
- m. An organization formed by building and loan associations appraising properties that are offered by borrowers and to appraise plans for building contracts entered into by members. See *Central Appraisal Bureau v. Commissioner*, 46 B.T.A. 1218 (1942).
- n. An organization of investment brokers investigating causes of bonds defaults and performing other services members would have been required to perform in making bond investments. See *Northwestern Municipal Association, Inc. v. United States*, 99 F.2d 460 (8th Cir. 1938).
- o. An organization formed estimating quantities of building materials required in members' projects. See *General Contractors' Ass'n of Milwaukee v. United States*, 202 F.2d 633 (7th Cir. 1953).
- p. An organization ensuring the discharge of legal obligations of its members to pay certain taxes. See Rev. Rul. 66-354, 1966-2 C.B. 207.
- q. An organization giving financial assistance to people entering a particular profession. See Rev. Rul. 67-176, 1967-1 C.B. 140.
- r. An organization of oil geologists maintaining a library for use by its members. See Rev. Rul. 67-182, 1967-1 C.B. 141.
- s. An organization furnishing particular information and specialized individual service to its members through publications and other means to effect economies in the operation of their individual businesses. See Rev. Rul. 56-65, 1956-1 C.B. 199, clarified by Rev. Rul. 65-164, 1965-1 C.B. 238 and Rev. Rul. 72-211, 1972-1 C.B. 150.

- t. A bureau operating a credit information service for its members. See *United States v. Oklahoma City Retailers Association*, 331 F.2d 328 (10th Cir. 1964), and Rev. Rul. 68-265, 1968-1 C.B. 265.
 - u. A manufacturers organization conducting research and making the results available only to its members rather than to the whole industry. See Rev. Rul. 69-106, 1969-1 C.B. 153, and *Glass Container Industry Research Corp. v. U.S.*, 70-1 USTC 9214 (W.D. Pa. 1970).
 - v. An organization operating a telephone-answering service for member doctors. See Rev. Rul. 71-175, 1971-1 C.B. 153.
 - w. An organization of commercial banks providing and promoting a credit card plan for member banks. See Rev. Rul. 70-591, 1970-2 C.B. 118.
 - x. An organization principally providing its members with group workmen's compensation insurance. See Rev. Rul. 74-81, 1974-1 CB. 135.
 - y. An organization principally providing a telephone answering service to distribute calls for towing service on a rotational basis to its members who are tow truck owners and operators. See Rev. Rul. 74-308, 1974-2 C.B. 168.
 - z. An organization formed by carriers engaged in regular transoceanic passenger service, primarily appointing travel agents to book passenger travel on its members' ships. See Rev. Rul. 74-228, 1974-1 C.B. 136.
 - aa. An organization maintaining the good will and reputation of credit unions in a particular state by making interest-free loans to credit unions in financial difficulty. See Rev. Rul. 76-38, 1976-1 C.B. 157.
 - bb. An organization publishing and distributing to its members' customers and potential customers a directory containing members' names and addresses. See Rev. Rul. 76-409, 1976-2 C.B. 154.
 - cc. An organization promoting one of a number of possible technologies, for the interest of its members who had to purchase licenses, was providing services to its members. See *Bluetooth SIG, Inc. v. United States*, 611 F.3d 617 (9th Cir. 2010).
 - dd. An organization sponsoring retirement plans for attorneys was providing services to individual attorneys and didn't show it improved conditions in the legal profession generally. See *ABA Retirement Funds v. United States*, 759 F.3d 718 (7th Cir. 2014).
- (9) An activity carried on by a business league can benefit the common business interest even though there is also an incidental benefit to individual members that, standing alone, might have appeared to be a particular service to individuals. Examples include the following:
- a. An organization of tuna fishermen negotiating with packers for standard prices to be paid to all tuna fishermen, both members and nonmembers.

See *American Fishermen's Tuna Boat Association v. Rogan*, 51 F. Supp. 933 (S.D Calif. 1943).

- b. An organization of employers in an industry negotiating terms of a uniform labor contract for the entire industry, mediates and settles labor disputes affecting the industry, and interprets contracts. See Rev. Rul. 65-164, 1965-1 C.B. 238.
- c. An organization operating a bid registry open to all individuals or firms in a particular trade or industry to encourage fair bidding practices within the industry. See Rev. Rul. 66-223, 1966-2 C.B. 224.
- d. An association of insurance companies investigating criminal aspects of claims against its members. See Rev. Rul. 66-260, 1966-2 C.B. 225.
- e. An organization of growers and processors of agricultural products subsidizing a lawsuit instituted by one of its members to prevent air pollution in the area served by the organization. See Rev. Rul. 67-175, 1967-1 C.B. 139.
- f. An insurance rating bureau, operated by casualty insurers under the authority of a state insurance commissioner, establishing uniform rates and compiling information for the industry. See *Oregon Casualty Association v. Commissioner*, 37-B.T.A. 340 (1938), acq., 1938-1 C.B. 22.
- g. An organization formed by fire insurance companies conducting fire patrols and salvage operations. See *Minneapolis Board of Fire Underwriters v. Commissioner*, B.T.A.M. 10,464-A (1938).
- h. An organization of financial institutions offering rewards for information leading to the arrest and conviction of individuals committing crimes against its members. See Rev. Rul. 69-634, 1969-2 C.B. 124.
- i. An organization formed by manufacturers of a particular product conducting a program of testing and certifying the product to establish acceptable standards within the industry as a whole. See Rev. Rul. 70-187, 1970-1 C.B. 131.
- j. An association of insurance companies making insurance available to persons in high-risk categories who can't otherwise obtain coverage by providing for the equitable distribution of such policies among its members. See Rev. Rul. 71-155, 1971-1 C.B. 152.
- k. An organization formed to regulate the sale of a specific agricultural commodity assuring equal treatment of producers, warehousemen, and buyers, where it doesn't provide facilities for buying or selling commodities. See Rev. Rul. 55-715, 1955-2 C.B. 263.
- l. An organization of advertising agencies verifying the advertising claims of publications selling advertising space and makes reports available to members of the advertising industry generally. See Rev. Rul. 69-387, 1969-2 C.B. 124.

- m. An organization formed to promote the interests of its members and others in the building and construction industry providing a plan room and news bulletin available to the entire industry. See Rev. Rul. 72-211, 1972-1 C.B. 150 which clarifies Rev. Rul. 56-65.
- n. An organization created under a state statute paying claims against insolvent fire and casualty insurance companies, where membership in the organization is required of all insurance companies writing fire and casualty insurance in the state and its income is derived from membership assessments and claims against the assets of the insolvent companies. See Rev. Rul. 73-452, 1973-2 C.B. 183.

H. Net Earnings Must Not Inure to Benefit of Any Individual

- (1) Section 501(c)(6) states, “no part of the net earnings of which inures to the benefit of any private shareholder or individual.”
- (2) Before considering whether an organization’s net earnings result in inurement, it’s important to remember business league members receive permissible benefits as a result of the organization’s exempt function. The members generally benefit from the general improvement of business conditions of the line of business. See *MIB, Inc. v. Commissioner*, mentioned above. Also, benefits that serve the common business interest of members received through membership such as educational programs, lobbying activities, and industry-wide advertising services are permissible benefits. See *Louisiana Credit Union League v. United States*, 693 F.2d 525 (5th Cir. 1982).
- (3) Commenting on inurement, the non-precedential guidance of GCM 38559 (1980) states the following:

First, the proper performance by an organization of the functions for which it was exempted will never result in inurement of the type proscribed by the statute. Second, for there to be inurement of the type proscribed by the statute, there must be something more than an incidental benefit to members of the organization or those in privity with it. There must be an expenditure of organizational funds resulting in a benefit which is beyond the scope of the benefits which logically flow from the organization’s performance of its exempt functions.
- (4) When making a determination of inurement, it’s important to remember that a determination of inurement is based on an organization’s individual facts and circumstances. See *Michigan Mobile Home & Recreational Vehicle Institute v. Commissioner*, 66 T.C. 770 (1976).
- (5) Funds distributed for the benefit of individual members often result in inurement. Differing terms such as dividend, refund, or rebate can be used to describe a distribution. The term used doesn’t affect the inurement consideration. These distribution activities may occur in several forms.
 - a. An organization pays cash dividends. See *Michigan Mobile Home*, above.

- b. An organization provides financial assistance and welfare benefits for the members. See Rev. Rul. 67-251, 1967-2 C.B. 196.
 - c. An organization pays its members for expenses they incurred in defending malpractice suits and paying judgments rendered in the suits. See *National Chiropractic Association, Inc. v. Birmingham*, 96 F. Supp. 874 (N.D. Iowa 1951).
 - d. An association of wholesale grocers owns a copyright on certain grocery labels and pays royalties to its members. See *Wholesale Grocers Exchange, Inc. v. Commissioner*, 3 T.C.M. 699 (1944).
- (6) Certain distributions don't result in inurement if the distributions represent no more than a reduction in dues or contributions previously paid to the league to support its activities and distributed equally to all who paid dues or contributions.
- a. The refund of excess dues to members of an exempt agricultural organization in the same proportion as the dues are paid does not disqualify the organization from exemption. See Rev. Rul. 81-60, 1981-1 C.B. 335.
 - b. Cash rebates made by an exempt business association to member and nonmember exhibitors who participate in the association's annual industry trade show, that represent a portion of an advance floor deposit paid by each exhibitor to insure the show against financial loss, are made to all exhibitors on the same basis, and may not exceed the amount of the deposit, don't adversely affect the association's exempt status. See Rev. Rul. 77-206, 1977-1 C.B. 149.

I. Nonmember Income and Inurement

- (1) As Rev. Rul. 77-206 and Rev. Rul. 81-60 describe, funds received from nonmembers and then used to provide a benefit to members may result in inurement. As mentioned above, a determination of inurement is based on an organization's individual facts and circumstances. Some factors to consider that may indicate inurement include, but aren't limited to, the following:
- a. A distribution to an individual exceeds the amount that individual originally paid to the organization. See *King County Ins. Ass'n v. Commissioner*, 37 B.T.A. 288 (1938).
 - b. Rebates are made to all exhibitors on the same basis and may not exceed the amount of the deposits. See Rev. Rul. 77-206, 1977-1 C.B. 149.
 - c. The method of distribution treats members differently from nonmembers. See *Michigan Mobile Home and Recreational Vehicle Institute v. Commissioner*, 66 T.C. 770 (1976).
- (2) It's possible the nonmember activities could result in inurement to the members. This type of inurement occurs when profits are used to expand and enlarge activities and the resulting increased service and activity inures to the benefit of its members. See *American Auto. Asso. v. Commissioner*, 19 T.C. 1146 (1953).

- (3) Nonmember income doesn't result in inurement when the income is related to the organization's exempt purpose and does not inure to the benefit of individual members except through the general improvement of business conditions of the line of business. Consider the following:
- a. An organization formed to promote a professional sport that receives income from the operation of championship tournaments open to the public, the sale of broadcasting rights, and the sale of publications. See Rev. Rul. 58-502, 1958-2 C.B. 271.
 - b. A veterinarians' association collecting fees from operating a rabies clinic open to the general public. See Rev. Rul. 66-222, 1966-2 C.B. 223.
 - c. An association of insurance agents receiving commissions from handling insurance programs. See Rev. Rul. 56-152, 1956-1 C.B. 56.
 - d. A professional association receiving fees from nonmembers for a training program. See Rev. Rul. 67-296, 1967-2 C.B. 212.
- (4) Where an exempt business league derives revenue from sources other than membership dues, it becomes necessary to determine whether the income producing activity is an unrelated trade or business. See section III.E, below.

III. Other Considerations

A. Political and Legislative Activities

A.1. Dues Used for Political and Legislative Purposes

- (1) Section 162(e)(1) provides in part, in the case of a business taxpayer, no deduction is allowed for expenditures for participation or intervention in a political campaign on behalf of any candidate for public office, or in connection with any attempt to influence the general public or segments thereof with respect to legislative matters, elections, or referendums. If a substantial part of the activities of a trade association, labor union, or similar organization consists of one or more of the above activities, a deduction is allowed only for that portion of a member's dues to the organization the taxpayer can clearly establish is attributable to other activities. See Treas. Reg. 1.162-20(c)(3) and Treas. Reg. 1.162-20(d).

A.2. Deductibility of Dues and Grassroots Lobbying

- (1) Since there is a prohibition on the deductibility of dues used for "grassroots" lobbying, the activities that constitute "grassroots" lobbying must be determined. For example, media ads must be analyzed to determine whether they were produced in connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters, elections, or referendums. This determination can be difficult at times, since the regulations under Treas. Reg. 1.162-20(a)(2) make clear that expenses for institutional or "good will" advertising are generally deductible. "Institutional" or "good will" advertising, for

example, includes ordinarily allowable expenses incurred to bring the organization's name before the public. Similarly, institutional advertising expenses, such as those incurred for the purpose of presenting views on economic, financial, social, or other subjects of a general nature that don't directly or indirectly propose, support, or oppose legislation are also ordinarily deductible if they otherwise meet the requirements of the regulations under Section 162. The problem is determining whether the advertising is entirely "institutional" or "good will" in nature, or whether it is an attempt through words, phrases, pictures, etc. to develop a "grassroots" point of view regarding the promotion or defeat of legislation or a referendum.

- (2) Rev. Ruls. 78-111, 112, 113, and 114, 1978-1 C.B. 41-44 discuss grassroots lobbying and analyze examples of non-deductible grassroots lobbying expenditures. While only Rev. Ruls. 78-113 and 78-114 deal specifically with Section 501(c)(6) organizations, the analysis in all four revenue rulings is applicable to the determination of whether a particular activity is grassroots lobbying.
- a. Rev. Rul. 78-111 concludes a corporation engaged in grassroots lobbying when it distributed to its shareholders its president's testimony against an environmental bill. The testimony emphasized the cost to the corporation and recommended defeat of the bill. Although the communication didn't ask the shareholders to contact their legislators it was a clear attempt to influence the opinion of the shareholders (members of the public) and therefore constituted grassroots lobbying.
 - b. Rev. Rul. 78-112 concludes that a corporation engaged in grassroots lobbying when it placed advertisements in newspapers and magazines urging the rejection of a certain land use bill that would hamper the corporation's land development business. Although these advertisements didn't ask the readers to contact their representatives, they were clear attempts to influence the public on proposed legislation and therefore constituted grassroots lobbying.
 - c. Rev. Rul. 78-113 concludes that a tax-exempt trade association engaged in grassroots lobbying when it urged its members to ask their employees and customers to support the repeal of certain legislation. Communications between the trade association and its members about legislation are legitimate business activities, the expenses for which are deductible. Conversely, communications directed beyond the organization's members to a segment of the public (employees and customers in this case) are grassroots lobbying, the expenses for which are not deductible under Section 162(e)(1)."
 - d. Rev. Rul. 78-114 concludes that a tax-exempt trade association engaged in grassroots lobbying when it urged its prospective members to contact their congressmen in support of certain legislation favorable to the association. The trade association's communication with its members about the legislation is a legitimate business activity the expenses for

which are deductible; however, the communication to the prospective members is a communication with the public and is therefore grassroots lobbying the expenses for which aren't deductible under Section 162(e)(1).

- (3) The examination of any Section 501(c)(6) organization should include a thorough review of the organization's legislative and political activities.

B. Effect of Section 527(f) on Political Expenditures

- (1) Section 527(f) imposes a tax on any direct political expenditures of an organization exempt under Section 501(c)(6). Section 527(f)(3) permits an exempt Section 501(c) organization to spin its political activities off into a separate segregated fund which would then be subject to Section 527. If an organization is primarily engaged in political activities, it isn't described in Section 501(c)(6).

C. Classification Issues for Business Leagues

- (1) Because of the rather broad language of some of the paragraphs under Section 501(c), there are situations where a certain amount of overlap occurs, thus creating a question whether an organization should be classified under Section 501(c)(6) or under some other paragraph. The following information illustrates some distinctions.

C.1. Section 501(c)(6) v. Section 501(c)(3)

- (1) A professional society may also qualify for exemption under Section 501(c)(3) if its purpose is to advance the profession by engaging in exclusively educational or scientific activities.
- (2) An organization may not be classified under Section 501(c)(3) if it has substantial non-charitable and non-educational purposes and activities, regardless of the number or importance of truly charitable or educational purposes it may otherwise have. See Rev. Rul. 71-504, 1971-2 C.B. 231, and Rev. Rul. 71-505 C.B. 232.
- (3) Rev. Rul. 71-506, 1971-2 C.B. 233, describes a professional society that does qualify for exemption under Section 501(c)(3), in contrast to the organizations described in Rev. Rul. 71-504 and Rev. Rul. 71-505.

C.2. Section 501(c)(6) v. Section 501(c)(5) Agricultural Orgs

- (1) Section 501(c)(5) provides exemption for, among others, nonprofit agricultural organizations. Many associations that are to some degree related to agriculture may be more properly classified as business leagues. The decisive factor is whether the organization's purpose is to promote the common business interests and better the conditions of persons directly engaged in agricultural pursuits or to promote the common business interest of some other business groups closely related to agriculture such as suppliers of goods or services to the agricultural community or packers or processors of raw agricultural commodities. See Rev. Rul. 67-252, 1967-2 C.B. 195.

- (2) Contrast with an organization of fur ranchers that was formed to encourage better and more economical methods of raising fur-bearing animals, provide for an orderly system for marketing the pelts of animals raised by its members, and create a public demand for their products. It carried out its purposes by furnishing its members educational material on the breeding and raising of fur-bearing animals and the marketing of pelts, procuring agreements from auction companies to market the products of its members, and conducting advertising to encourage the use of fur products. This organization was held to be principally occupied with improving the conditions and products of persons engaged in agriculture, and therefore, exempt under Section 501(c)(5). See Rev. Rul. 56-245, 1956-1 C.B. 204. This ruling is silent as to whether, based on these facts, the organization would qualify for exemption under Section 501(c)(6).

C.3. Section 501(c)(6) v. Section 501(c)(5) Labor Orgs

- (1) When considering whether the activities of an organization qualify it for exemption as a business league described under Section 501(c)(6) rather than a Section 501(c)(5) labor organization, consider how the amount of the activity affects qualification or who controls the organization. The following rulings illustrate some of those distinctions:
 - a. A corporation whose membership is made up of individuals, partnerships, firms and corporations engaged in a particular industry was organized for the purpose, among others, of assisting in the making of trade agreements respecting employment of labor by its members generally; conducting collective bargaining with employees and labor groups for its members; promoting settlement of labor disputes and preventing strikes and lockouts. Its activities consist solely of negotiation of collective bargaining contracts, interpretation of such contracts, and adjustment of labor disputes. Such organization qualifies for exemption as a business league. See Rev. Rul. 65-164, 1965-1 C.B. 238.
 - b. See also the Section 501(c)(6) favorable rulings, Rev. Rul. 70-31, 1970-1 C.B. 130, and Rev. Rul. 82-138, 1982-2 C.B. 106, in which the members are labor unions and business leagues. Contrast with the Section 501(c)(5) favorable rulings, Rev. Rul. 59-6, 1959-1 C.B. 121, and Rev. Rul. 75-473, 1975-2 C.B. 213, in which employees or labor unions were among the members and for which the activities primarily promoted labor. Note that these rulings are silent on whether the facts would qualify exemption under Section 501(c)(6).

D. Non-Deductibility of Contributions

- (1) Contributions to Section 501(c)(6) organizations aren't allowable as a deduction under Section 170. Section 6113 requires certain tax-exempt organizations that are ineligible to receive tax deductible charitable contributions to disclose, in "an express statement (in a conspicuous and easily recognizable format)," the non-deductibility of contributions during fundraising solicitations. Section 6710

provides penalties for failure to comply with Section 6113 without reasonable cause. Organizations whose annual gross receipts don't normally exceed \$100,000 are excepted from this disclosure requirement.

- (2) For solicitations involving membership dues of Section 501(c)(6) organizations that are normally deductible as business expenses under another section of the Internal Revenue Code, additional stipulated safe harbor notices may be substituted, such as, "Contributions or gifts to [name of organization] aren't tax deductible as charitable contributions. However, they may be tax deductible as ordinary and necessary business expenses." See Notice 88-120, 1988-2 C.B. 454.

E. Unrelated Business Income Tax

- (1) As noted in the overview of essential exemption requirements, a Section 501(c)(6) organization's principal or primary activities must further Section 501(c)(6) purposes in order to qualify for exemption. An incidental amount of non-exempt activity generally doesn't adversely affect qualification for exemption. Again, see Associated Master Barbers, above. A business league might generate income from these non-exempt activities as noted above such as dues from certain associate members and from the performance of particular services for individual persons. Those non-exempt activities may subject the organization to unrelated business income tax.
- (2) Section 511 imposes a tax on the unrelated business taxable income, as computed under Section 512, of organizations otherwise exempt from tax under Section 501(c)(6). The term "unrelated business taxable income" as defined in Section 512 means, with certain exceptions, additions, and limitations, the gross income derived by any subject organization from any unrelated trade or business regularly carried on by it, less allowable deductions directly connected with the carrying on of such trade or business. Section 513 defines the term "unrelated trade or business," in the case of any organization subject to the tax imposed by Section 511, as any trade or business the conduct of which isn't substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its exempt functions.
- (3) Examples of activities subjecting a Section 501(c)(6) organization to unrelated business income tax include the following:
 - a. An exempt business league may engage in business with its own members so long as this isn't its primary activity. A business league that manages its members' employee welfare programs is subject to unrelated business income tax on the fees it receives from its members. See Rev. Rul. 66-151, 1966-1 C.B. 152.
 - b. An exempt retail food merchants' association that regularly carries on as a minor portion of its activities a coupon redemption service for its members is engaged in an unrelated trade or business. See Rev. Rul. 68-267, 1968-1 C.B. 284.

- c. The income from the operation of a park and shop plan in which patrons of particular member merchants receive stamps entitling them to free parking is unrelated business income. See Rev. Rul. 79-31, 1979-1 C.B. 206.
- d. A language translation service, provided by an exempt trade association that promotes and develops trade relations between entities located in the U.S. and the government of a foreign country, is an unrelated trade or business within the meaning of Section 513. See Rev. Rul. 81-75, 1981-1 C.B. 356.
- e. A Section 501(c)(6) organization, created by a chamber of commerce to encourage business development in a particular area, obtains a mortgage to help finance the construction of a building that is leased to an industrial tenant at less than the fair market value. The leasing of the property is substantially related to the organization's exempt purpose of attracting industry to the community. For this reason, the property doesn't constitute debt-financed property within the meaning of Section 514(b)(1). See Rev. Rul. 81-138, 1981-1 C.B. 358, amplifying Rev. Rul. 70-81, 1970-1 C.B. 131.

E.1. Trade Publications

- (1) The publishing of trade journals has been found to constitute the performance of particular services where the journals are mainly catalogs of the products of members.
- (2) However, exemption was recognized for an association of wholesalers of shoe supplies, one of whose principal functions was the publication of a magazine containing information of interest to the entire industry distributed free to shoe repairmen. The court found the magazine wasn't a sales medium for individual members and wasn't a business of a kind ordinarily carried on for profit. See *National Leather & Shoe Finders Association v. Commissioner* 9 T.C. 121 (1947), acq. 1947-2 C.B. 3.
- (3) *National Leather* can be contrasted with a case referenced therein that draws the opposite conclusion about a proposed trade journal. See *Auto. Elec. Ass'n v. Comm'r*, 8 T.C. 894, 901 (1947), aff'd, 168 F.2d 366 (6th Cir. 1948).

E.2. Qualified Trade Show Activities

- (1) Under certain circumstances, income received from trade show activity conducted at a convention, annual meeting, or trade show won't constitute unrelated trade or business income.
- (2) Section 513(d)(3), added to the Code by Section 1305 of the Tax Reform Act of 1976, provides that qualified convention and trade show activities conducted by an organization described in Sections 501(c)(5) or 501(c)(6) aren't unrelated trade or business if certain requirements are met:
 - a. Per Section 513(d)(3)(B), qualified convention or trade show activity is activity that is in conjunction with an international, national, State, regional, or local convention, annual meeting, or show conducted by an

organization described in subparagraph (C) if one of the purposes of such organization in sponsoring the activity is the promotion and stimulation of interest in, and demand for, the products and services of that industry in general or to educate persons in attendance regarding new developments or products and services related to the exempt activities of the organization, and the show is designed to achieve such purpose through the character of the exhibits and the extent of the industry products displayed.

- b. A qualifying organization is one described in Section 501(c)(5) or 501(c)(6) that regularly conducts as one of its substantial exempt purposes a show that stimulates interest in, and demand for, the products and services of the particular industry.
- (3) If a convention or trade show activity is not unrelated trade or business by reason of Section 513(d), it's also an exempt activity of the particular Section 501(c)(5) or 501(c)(6) organization.
 - (4) The provisions dealing with qualified convention and trade show activities are applicable to taxable years beginning after October 4, 1976.
 - (5) Activities conducted on the supplementary section of an organization's internet website during the 16-day period that coincides with the organization's qualified trade show are part of a "qualified convention and trade show activity" under Section 513(d)(3)(B). See Rev. Rul. 2004-112, 2004-2 C.B. 985. The same internet activities of a different organization that don't coincide with a qualified trade show aren't covered by Section 513(d)(3)(B).
 - (6) Because of Section 513(d), the holdings of certain revenue rulings that the rental of display space constitutes unrelated trade or business are no longer correct. Therefore, Rev. Ruls. 75-517, 75-518, 75-519, and 75-520, 1975-2 C.B. 221-226, have been revoked for taxable years beginning after October 4, 1976, by Rev. Rul. 85-124, 1985-2 C.B. 168. Rev. Rul. 67-219, 1967-2 C.B. 210, and Rev. Rul. 75-516, 1975-2 C.B. 220, aren't inconsistent with Section 513(d), but they imply that had there been selling at the shows, unrelated business income could have resulted. Because this implication is no longer correct, those revenue rulings have been made obsolete by Rev. Rul. 85-123, 1985-2 C.B. 168, effective for taxable years beginning after October 4, 1976.

E.3. Provision of Pension and Health Benefits

- (1) The activity of providing pension and health benefits to members is unrelated to the purpose or function constituting the basis for exemption of an IRC 501(c)(6) business league and results in unrelated business income within the meaning of Section 512. In *ABA Retirement Funds v. United States*, 759 F.3d 718 (7th Cir. 2014), aff'g 2013-1 U.S. Dist. LEXIS 60086 (N.D. Ill. 2013), an appeals court upheld a district court's ruling that an organization formed to create and maintain retirement plans for adoption by lawyers and law firms was not a tax-exempt "business league" under Section 501(c)(6). ABA Retirement entered into a contract with State Street Bank and Trust to be the trustee and ABA

Retirement became the plan fiduciary. In its role as plan fiduciary, ABA Retirement had a variety of duties, such as vendor oversight, negotiating contracts, reviewing and approving the marketing plan, and recommending ways to grow its participant list and assets. ABA Retirement assisted State Street in its marketing efforts by publicizing and mailing promotional materials about its retirement plans to attorneys, sections of the ABA, and others engaged in the legal profession. Although State Street was authorized to hire and fire investment consultants, ABA also had input in the investment decisions. ABA was authorized to fire State Street.

- (2) The Plan paid ABA Retirement for the expenses incurred in providing administration, marketing and other services related to the retirement program. The fee was based on a percentage of all the investments. In considering whether ABA Retirement was a business league for purposes of section 501(c)(6), the court looked for guidance in section 1.501(c)(6)-1 of the Treasury regulations, specifically, the six points enumerated earlier. The court stated:

ABA Retirement fails every necessary condition for business league status. Because the district court's opinion is thorough, we focus on just two of the reasons why ABA retirement is not a business league: 1) its activities are not directed to the improvement of business conditions for the legal field generally; and 2) it engages in a business ordinarily conducted for profit.

- (3) The appeals court agreed with the district court that an organization that engages in business activities incidentally will not lose its tax exemption. However, in this case, both courts found that the association's insurance activities were directed towards providing benefits to individuals within the industry and those activities were substantial.
- (4) The court found that ABA Retirement's activities were not directed to the improvement of business conditions of one or more lines of business because it carried on substantial activities directed towards promoting its own retirement plan, rather than promoting general retirement savings in the legal profession. The court stated that while retirement planning is a business, it provides benefits to individual persons, not to an entire field of commerce, and doesn't qualify ABA Retirement for exempt status. The court found that ABA Retirement was engaged in business ordinarily conducted for profit because ABA Retirement was not just a sponsor of the retirement plan, it provided a service in connection with the retirement program for which it was paid a program expense fee based on a percentage of the total assets. Accordingly, the court concluded that ABA Retirement was not exempt from federal income tax under IRC 501(c)(6). If an organization is providing a particular service to its members, and possibly their families, employees, and others it is not a regularly carried on trade or business substantially related to the purpose or function forming the basis of exemption. This is also consistent with the holding in Rev. Rul. 67-251, 1967-2 C.B. 196, where a business league that extended financial aid and welfare services to its members did not qualify under Section 501(c)(6) since part of its net earnings inured to the benefit of private individuals; this was

so, even though its financial aid to members was minor in relation to its other activities which were directed to improvement of business conditions in a line of business. See also, Rev. Rul. 67-176, 1967-1 C.B. 140 (providing an emergency loan plan, practice loan plan, hotel discounts, and a car leasing plan is tantamount to performing particular services for members as opposed to improvement of a line of business.)

- (5) Providing members with a variety of services, such as the collection of freight claims and the preparation of bills of lading, is the performance of individual services rather than benefiting the membership as a whole. *Southern Hardwood Traffic Association v. United States*. In providing insurance or textbooks for members, an organization is relieving its members of obtaining insurance or textbooks on an individual basis from a nonexempt commercial business; thus, the organization is rendering “particular services” for the individual members as distinguished from an improvement of business conditions. *Associated Master Barbers & Beauticians of America, Inc. v. Commissioner*. Finally, an association that performed managerial services, weekly bookkeeping services, quarterly audits, annual preparation of federal income tax returns and other services for its members was engaged in particular services for its members. *Indiana Retail Hardware Association v. United States*. Contrast with an association whose activities consisted of the negotiation of written collective bargaining labor contracts, the interpretation of such contracts, and the adjustment of labor disputes; 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 that they could purchase elsewhere. Rev. Rul. 65-164, 1965-1 C.B. 238.
- (6) In general, providing pension and health benefits to members does not further Section 501(c)(6) purposes and is not substantially related to the promotion of the common interest of the membership of an Section 501(c)(6) business league. These activities relieve members of the business expense and burden of separately providing for and managing their health and pension benefits. Therefore, these activities are generally subject to tax under Section 511 because they constitute unrelated trade or business under Section 512 and are not substantially related within the meaning of Section 513.

F. Selling Marts

- (1) If an organization’s sole purpose or activity is to conduct a sales facility for its members or the suppliers of its members, it is not entitled to exemption. In Rev. Rul. 58-224, 1958-1 C.B. 242, an organization’s sole activity is to conduct an annual trade show only for the purpose of bringing buyers and sellers together. The show isn’t held in conjunction with a convention or annual meeting. The organization isn’t exempt under Section 501(c)(6). Section 513(d) doesn’t affect the holding in Rev. Rul. 58-224.

IV. Application for Recognition of Exemption

- (1) Organizations seeking exemption under Section 501(c)(6) are required to electronically submit the Form 1024, Application for Recognition of Exemption Under Section 501(a) or Section 521 of the Internal Revenue Code. See Rev. Proc. 2024-5, 2024-1 I.R.B. 262, updated annually.
- (2) Since December 18, 2015, denials may be appealed. Organizations described in Section 501(c)(6) may institute a declaratory judgment proceeding in court in response to a denial under the rules of Section 7428. See Sections 9 and 10 of Rev. Proc. 2024-5, 2024-1 I.R.B. 262, updated annually, and Publication 892.

V. Examination Techniques

- (1) The following sections provide examination techniques to assist in identifying and developing issues commonly encountered during the examination of a Section 501(c)(6) organization. These guidelines are not all-inclusive, and the intent is not to restrict the examiner in identifying issues or using examination techniques not included herein.

A. Section 501(c)(6) Membership Examination Techniques

- (1) Ask the following questions and appropriate follow-up questions during the initial contact or initial interview:
 - a. What are the membership requirements?
 - b. Does the organization have different classes of memberships?
 - c. If so, what are the membership requirements for each class of members?
- (2) Read the articles of incorporation, bylaws, etc. for the membership requirements to verify membership is limited to persons with a common business interest.
- (3) Review lists of members and activities to ensure that actual membership does not represent only a segment of a line of business.
- (4) Review membership solicitation materials to determine requirements, classes of memberships, and benefits.

B. Inurement Examination Techniques

- (1) Review the organizational documents, membership solicitation materials, minutes, and contracts with employers to identify the types of benefits provided to officers and members.
- (2) Review the organization's employment contracts, Forms W-2 and other employment records to determine the number and duties of the organization's employees and the reasonableness of salaries and benefits.
- (3) Review the disbursement journal to identify any payments to members and determine the reason for any such payments.

C. Unrelated Business Income Examination Techniques

- (1) Read the minutes, newsletters, and other publications. Look for indications of particular services to members and other unrelated activities.
- (2) Review publications to determine whether they:
- (3) Contain advertising, which may subject the organization to the tax on unrelated business income,
- (4) Contain advertising naming the products or services of members only. See Treas. Regs. 1.512(a)-1(f), Rev. Rul. 64-315, 1964-2 C.B. 147, and Rev. Rul. 65-14, 1965-1 C.B. 236.
- (5) Check the organization's website for advertising and other indications of unrelated trade or business activities.
- (6) Review any accounts involving non-member income or other income. Such income may be due to a regular business of a kind ordinarily carried on for profit.
- (7) Analyze income from members (other than dues) to identify any payments for particular or individualized services.
- (8) Review the dues account in the cash receipts journal for associate member dues. See Rev. Proc. 97-12, 1997-1 C.B. 631.

D. Compensation Examination Techniques

- (1) During the initial interview ask about bonuses, fringe benefits, and expense reimbursements for employees.
- (2) Look for discussions of the payment of bonuses in the minutes. Common examples include:
 - a. Holiday bonuses
 - b. Performance related bonuses
 - c. Non-cash bonuses such as gift certificates
- (3) Review the employee handbook for information about the organization's expense reimbursement policy.
- (4) Determine whether the organization maintains an accountable plan. Pay close attention to expense allowances, expense accounts, and similar arrangements.
- (5) Inspect vouchers and other documentation provided by employees.
- (6) Check the disbursement journal for payments made to employees in addition to payroll checks. Look for:
 - a. Payments for the same amount made each month
 - b. Payments for even dollar amounts

- (7) Review any restrictions on the use of employer provided vehicles for personal purposes. (See Treas. Reg. 1.61-21 for a discussion of the valuation of the personal use of an employer provided vehicle.)
- (8) Review employment contracts, employee handbooks, etc. for benefits offered by the organization to identify taxable fringe benefits. Fringe benefits are taxable unless specifically excluded by the Code. Examples of taxable fringe benefits include:
 - a. Club dues
 - b. Deferred compensation (nonqualified arrangements) plans
 - c. Group term life insurance in excess of \$50,000
 - d. Employer provided meals and lodging
 - e. Benefit plans (employee contributions)

E. Legislative Activities Examination Techniques

- (1) Interview the organization's officers and review the minutes, newsletters, web sites, and correspondence to identify any legislative activities.
- (2) Determine whether any lobbying is related to the organization's exempt purpose.
- (3) Determine whether any officials of the organization are registered lobbyists.
- (4) Review any contracts with outside lobbyists to determine the extent and the nature of such lobbying.
- (5) Review additional payments to officers, attorneys, etc. for lobbying expenditures disguised as compensation.
- (6) Determine whether the business league is subject to the reporting requirements of Section 6033(e).
- (7) Review dues statements of business leagues subject to such requirements to determine whether amounts used for lobbying were properly reported.
- (8) Inspect Form 990-T filed by business leagues which elected not to or failed to provide such notification to verify the proxy tax under Section 6033(e)(2)(A) was properly calculated.

F. Political Activities Examination Techniques

- (1) Interview the officers and review the minutes, newsletters, web sites, and correspondence to identify possible political activities conducted by the organization or the existence of a separate segregated political fund.
- (2) Analyze the following accounts for possible political expenditures:
 - a. Legal fees
 - b. Bonuses
 - c. Printing

- d. Advertising
 - e. Entertainment
- (3) Analyze bank statements, disbursement journals, etc., to identify whether the organization maintained a separate segregated fund for the purpose of making political expenditures.

VI. References

(1) EO CPE Text

- a. 1979 EO CPE Topic L: Recent Issues Under IRC 501(c)(6)
- b. 1981 EO CPE Topic H: IRC 501(c)(6): Business Leagues, Chambers of Commerce, etc.
- c. 1981 EO CPE Topic P: Insurance Activities of Exempt Organizations
- d. 1986 EO CPE Topic F: Insurance Activities of Exempt Organizations
- e. 1988 EO CPE Topic A: New Developments in IRC 501(c)(5) and IRC 501(c)(6)
- f. 1992 EO CPE Topic G: Economic Development Corporations
- g. 1995 EO CPE Topic G: Limited Member Dues as Unrelated Business Income
- h. 2003 EO CPE Topic K: IRC 501(c)(6) Organizations

Note: Although the precedent cited in these CPE texts was current at the time they were published, some of the references may now be outdated.