



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Attn: Mandatory Review, MC 4920 DAL
1100 Commerce St.
Dallas, TX 75242

501.06-00

Date: April 2, 2013

Number: **201338047**
Release Date: 9/20/2013

LEGEND

ORG - Organization name
XX - Date Address - address

ORG
ADDRESS

Employer Identification Number:
Person to Contact/ID Number:
Contact Numbers:

Voice
Fax

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

In a determination letter dated March 16, 20XX, you were held to be exempt from Federal income tax under section 501(c)(6) of the Internal Revenue Code (the Code).

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(6) of the Code. Accordingly, your exemption from Federal income tax is revoked effective January 1, 20XX. This is a final adverse determination letter with regard to your status under section 501(c)(6) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On June 12, 20XX you signed Form 6018-A, *Consent to Proposed Action*, agreeing to the revocation of your exempt status under section 501(c)(6) of the Code.

You are required to file Form 1120 U. S. Corporation Income Tax Return. You have filed Form 1120 U. S. Corporation Income Tax Return for the years ended December 31, 20XX, December 31, 20XX, December 31, 20XX, December 31, 20XX and December 31, 20XX with us. In addition, for future periods, you are required to file Form 1120 with the appropriate service center indicated in the instructions for the return.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

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

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
400 North Eighth Street
Richmond, VA 23219

Department of the Treasury

Date: June 29, 2012

Taxpayer Identification Number:
Forms:
Tax Year(s) Ended:

ORG
ADDRESS

Person to Contact/ID Number:
Contact Numbers:
Telephone:
Fax:

Certified Mail – Return Receipt Requested

Dear _____ :

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you accept our findings, please sign and return the enclosed Form 6018-A, *Consent to Proposed Action*. We will then send you a final letter modifying or revoking your exempt status.

If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final.

In the event of revocation, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the examining agent within 30 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation Services referred to in Publication 3498, generally do not apply after issuance of this letter.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in the United States Tax Court, the United States Court of Federal Claims, or the United States District Court, after satisfying procedural and jurisdictional requirements.

**Modified Letter 3610 (Rev
11-2003)**
Catalog Number 34801V

You may also request that we refer this matter for technical advice as explained in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosure:
Publication 892,
Publication 3498,
Signed Form 6018-A,
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 20XX12 - 20XX12	

LEGEND

ORG - Organization name EIN - ein XX - Date City - city State - state
Country - country website - website Motto - motto President - president
Treasurer - treasurer Founder - founder RA-1 through RA-7 - 1st through 7th RA
CO-1 THROUGH CO-54 - 1ST THROUGH 54TH COMPANIES

ISSUES

Does ORG's (ORG) continue to qualify for exemption under Internal Revenue Code § 501(c)(6)?

FACTS

The ORG was granted exemption from federal income tax on March 16, 20XX under 501(a) of the Internal Revenue Code (IRC) as an organization described in Section 501(c)(6). ORG was incorporated in the District of Country, under the non-profit corporation act, on November 14, 20XX.

Organizing and Operating Documents:

The exempt purposes of the ORG, as stated in its Articles of Incorporation, are to:

- (a) Recognize the founding members of the association and their efforts for the last twenty years by celebrating two decades of pioneering Motto and service to the community
- (b) Provide a vision and mission for Motto for the next twenty years and beyond
- (c) Acknowledge that the focus of activities for the association has shifted to the Nation's Capitol and the executive offices of the association are based in City, State
- (d) Continue to provide a membership organization that will provide support, information and assistance to the goals and objectives of Motto
- (e) Organize and hold conventions, conferences, panel discussions, summits and other forums where the goals and objectives of the membership can be advanced
- (f) All other activities to support the above and those activities not prohibited by law. Upon the dissolution of this corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501 of the IRC, or corresponding section of any future federal tax code, or shall be distributed to the Federal government or to state or local government for public purpose

Regarding membership, the Articles of Incorporation state:

“Membership shall be comprised of owners of publications that target or market to the Hispanic population within the United States and publications whose primary language is Spanish. Said

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publications can be newspapers, magazines, journals, industry publications, scholarly periodicals, Internet publications, databases and other forms or print media.”

ORG’s bylaws, dated January 4, 20XX, state ORG’s mission is:

“To promote and educate the Hispanic community in general and specifically promote and disseminate the recognition and use of the Hispanic print media.”

Amended bylaws, dated December 3, 20XX, were not submitted to the IRS. The amended bylaws changed the organization’s mission to:

“Further the excellence, recognition, and use of Motto and provide them access to professional development opportunities to better serve and empower Hispanic communities.”

ORG’s Form 990 for year ending December 31, 20XX states the organization’s primary purpose is:

“To promote better trade, press, (and) communication among members.”

Application for Exemption:

Form 1024, *Application for Recognition of Exemption Under 501(a)*, received by the Service on February 9, 20XX, states ORG members are to be:

“Owners of publications that target or market to the Hispanic population within the United States and publications whose primary language are Spanish.”

Form 1024 also states ORG:

“Does not provide any payments to members or shareholders for services performed nor does it provide insurance for members, their dependents, or others.”

Description – Print Media Broker and Representative Services Programs

In response to a March 11, 20XX Information Document ReCO-28 (IDR), ORG’s Treasurer, Treasurer, provided information about the Hispanic publishing industry as well as some of ORG’s activities.

The response explained how many Motto are small businesses and lack the competence and financial resources to sell national and regional advertisers on the value of their publication. Additionally, most national advertisers were not interested in buying advertising in one newspaper at a time with limited coverage. To bridge the gap, a few specialty ethnic media sales brokers saw an opportunity to package a number of Motto together into a “one buy-one invoice” approach to simplify the buying process. The IDR response stated the two major print media brokers are CO-1 (formerly CO-1) and CO-2 (CO-2). CO-3 (CO-3), owned by ORG’s founder, Founder, is considered one of the minor participants.

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The IDR response described print media brokers as having a direct relationship with the publications they represent. Typically, a publication provides a % discount from their published advertising rates to recognized advertising agencies and an additional % to % discount to the print broker as their sales commission.

The IDR response noted that CO-1 and CO-2 wanted to create more credibility with Motto by paying a fee to ORG and becoming an exclusive print media broker for ORG member publications. ORG permitted these brokers to use its logo, which was otherwise not allowed.

The IDR response explained how important it is for ORG to maintain a productive and collaborative relationship with its exclusive print media broker:

“The common business interest is the need to convince advertisers on the value of advertising in Motto as compared to their other advertising alternatives. Since the vast majority of these publications are solely supported by advertising revenue, it is a key focus in every publication. Several years ago, the ORG established a procurement committee with the purpose of making this argument to corporations, their marketing/advertising partners, government officials, and others.”

ORG’s website currently describes the “ORG Procurement Committee” as a collaborative effort between the ORG, CO-1 (ORG's current official print media broker) and member publications. Its goal is to build advertising revenues for member publications by increasing the financial commitment of Fortune 500 companies, their advertising agencies, and national, state, and local governmental entities.

The website description states that utilizing and promoting supplier diversity initiatives on behalf of member publications are an important component of this initiative. It also asserts that the committee educates stakeholders of the unique role and value proposition that Hispanic newspapers and magazines play in their local communities as compared to other media. It does this through one-one-one presentations and at ORG events held throughout the year in the organization’s seven regions.

Board of Directors Minutes Excerpts Relevant to Print Media Broker/Representative Programs

Excerpts taken from the Board of Directors meeting minutes reference the print media broker/representative programs described above. The following table identifies the people and entities referenced in the excerpts:

Person or Entity	Description
RA-1	CO-4 Representative – involved in a sponsorship arrangement with ORG
RA-2 (RA-2)	ORG and CO-5’s then Executive Director

Form **886-A**
(Rev. January 1994)**EXPLANATIONS OF ITEMS**Name of taxpayer
ORGTax Identification Number

EINYear/Period ended

**20XX12 -
20XX12**

Foundation	CO-5 (CO-5) – ORG’s charitable arm – CO-5 was exempt under Internal Revenue Code Section 501(c)(3) during the years open for ORG’s exam
Association	ORG (ORG) – The organization under exam
RA-3	ORG’s then President and Board member
CO-5	A member publication of ORG
CO-6, CO-7, CO-8, CO-9, CO-10, CO-11, CO-12, CO-13, CO-14, and CO-15	Member publications of ORG
Small business committee Small Business Development (SBD)	A committee of ORG representatives, formed by ORG’s Board, in which negotiates with companies that sell products or services that would benefit small member publications and provide the services/products to ORG members at a special rate.
Trade Agreement with CO-16	A trade agreement negotiated between CO-16 and ORG where ORG agreed to provide advertising for CO-16 in ORG new member publications and in return CO-16 agreed to provide free airline tickets to ORG members
CO-1 (formerly CO-1)	ORG’s exclusive print media broker
CO-2	CO-17 – Print media broker that also sold advertising in ORG member publications

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CO-18	Involved in a sponsorship and trade agreement with ORG
CO-3 (CO-3)	Print media broker - Owned by ORG's founder, Founder – Performed advertising sales for ORG member publications through ORG
Membership book revenue	Revenue recognized by ORG for the sale of advertising space in its annual publication, <i>Membership Directory</i> , and revenue from the sale of the publication
Membership Directory	ORG's annual publication sent each year to over 1000 advertising agencies, corporations, government officials, colleges and universities, and community organizations and also disseminated at all ORG events to promote the use of ORG's members
CO-19 (CO-19)	Conducts readership studies and various other services for ORG – Owned by Founder, ORG's Founder

Meeting Minutes dated:

- **January 27, 20XX**

RA-2 later met with CO-4 about the advertising campaign and discussed moving \$\$ over to the Association or the Foundation so CO-4 could earn a seat on the corporate council. The same program was also presented to . RA-2 said the Association was looking to make money from the advertising budget, perhaps % as a rep agency handling fee. He said CO-4 was interested in seven markets and RA-2 solicited bids, asking each newspaper in the seven markets to give him their best price. They included CO-6, CO-7, CO-8, CO-9, CO-10, CO-11, CO-12, CO-13, CO-14, CO-15, and one more that couldn't be remembered. RA-1 wanted to be in CO-20 but they are not a member. Therefore, RA-2 advised RA-1 to get them in as a member and to tell them he would not place the campaign with them unless they became a member of ORG. RA-2 said they told CO-20 they had been targeted by a corporate sponsor to participate in an outreach program but had to be a member to participate. Therefore, CO-20 joined ORG and then received the placement.

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RA-3 said, as that for a member of the board, it has been very sad that she can imagine how the other members feel if they perceive ORG is not working in their interest but is working for the benefit of CO-5. She said she would like ORG members to be represented as a whole.

- **April 2, 20XX**

A small business committee is being formed and will negotiate with companies that sell products or services that would benefit small publications and provide these to members at a special rate.

Concern was expressed with the trade agreement with CO-16. It was explained that the \$\$ in trade tickets are earmarked for membership recruitment only and could only be used for other purposes at the end of the year. It was suggested the Board look into trade deals with hotels and airlines for the Convention such as CO-21 and CO-22. In exchange for the trade, new members run a quarter-page ad saluting the partnership between ORG and CO-16. New members can also get a discount by running an ad with a discount code.

A discussion over the compensation of the Executive Director, RA-2 began. The Executive Director said it was agreed he would be paid \$\$ and the Foundation would pay \$\$. The Secretary, however, expressed concern saying he believed the arrangements were set at \$\$. It was advised the personnel committee negotiated offering the Executive Director a higher salary in exchange for not paying him sales commissions. This was approved in December in City. Concern was expressed that the Board was not following the due process for forming committees and empowering actions.

- **August 26, 20XX:**

A SBD (Small Business Development) program is in development and funding from corporations will earn matching advertising for the partnering sponsor from recipient publication.

Discussion of approval by CO-16 and CO-18 for uses of membership benefits to other altruistic programs with ORG. The President directed the CEO to secure approvals for modifying the sponsorship agreements.

- **September 23, 20XX**

A meeting between the President, Executive Director, and RA-4 (from CO-23) discussed the impending CO-23 Program to award cash prizes to qualifying ORG members pending completion of a survey for CO-23.

Advertising from January to August reflects \$\$ on CO-4 advertising monies. The Board questioned the Executive Director asking if the cash was for ORG. The Executive Director advised it was advertising for publications (income) but had to be spent on ads.

CO-24 and CO-25 are useful in promoting advertising but is not a profit center revenue generator.

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The 20XX Membership book revenue stands at \$\$ with an additional commitment from CO-23 for a full-page ad.

The newspaper ad placement rep agencies contracts are ending in December and should be renegotiated. CO-2 has submitted a withdrawal from contract letter and CO-1 has discussed its interest as the exclusive rep agency.

Membership now has 154 active publications and recommends some category changes and adoption of Corporate Membership for publications like CO-26.

- **February 19, 20XX**
QuickBooks are now being separated from Foundation (CPA addressing).
- **April 14, 20XX**
Questions concerning the CO-18 monies paid to the Association because there is no accountability to show.
- **June 26, 20XX**
Invoices were sent to advertising company that owes \$\$, CO-27 for \$\$, CO-28 for \$\$, CO-29 \$\$, and a television station for \$\$.
- **August 3, 20XX**
A recommendation was made that an event be held in Puerto Rico to attract advertisers. Also CO-2 is very interested in working to leverage Hispanic Heritage Month to build advertising opportunities for ORG members.
- **August 28, 20XX**
A letter, dated August 9, 20XX, was included. The letter was from RA-2 and was addressed to the Foundation's Chair (Founder-1). RA-5 addressed some of the issues relating to Board members and their alleged attempts to direct business from both non-profits to a supplier while having a business relationship with the supplier. Additionally, business relationships were not disclosed to the Board, the number of members was misrepresented to donors, prospective members and staff (either 220 members or \$\$ in unaccounted membership dues), repeated removal of non-profit property to a personal business, etc. The amounts of money involved are said to be substantial and actions by leadership has continued in the same manner. Therefore, the BOD was asked to support an IRS audit relating to self-dealing and excess benefit transactions. Also stated in the letter was that it appeared to be a systematic diversion of foundation assets to the benefit of the association and some of its members in particular. Also noted was the following statement to the foundation's chair: "Under your leadership, with the support of RA-6 and RA-7, one particularly blatant form of exploitation was arrested and the insider dealing associated with it broken up. That reform agenda is not

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complete.” As such, RA-5 did not renew his contract with the Foundation and reCO-28 \$\$ in monies he is owed.

- **September 21, 20XX**
The Treasurer’s report discussed the financial position of the organization and advised of the strategies to improve cash flow. These include strengthening the advertising sales partnership with CO-2 to assure adequate working capital. The organization is also exploring other member services activities that have the potential to generate additional revenues for the association.
- **September 27, 20XX**
The 20XX financial statements were reviewed. There is outstanding A/R in the amount of \$\$ with some invoices dating back to 20XX. In addition, several items were identified as membership dues and, according to CO-30, are not recorded as receivables..
- **September 28, 20XX**
A sponsorship agreement, dated November 7, 20XX, between ORG and CO-16 includes advertorial coverage in all new member participating publications (estimated value \$\$), corporate membership to ORG, tickets and reserved tables at several events and ORG will receive airline coupons of \$\$ each year of the contract.
- **September 29, 20XX**
To attract new members and keep old ones, marketing seminars are being promoted to secure diversity dollars for advertisements in Motto.
- **October 12, 20XX**
Regarding sponsorships, there have been some instances in which ORG acts as an intermediary, collecting funds from sponsors and passing them fully on to members directly without financial benefit to the association. The association needs to revisit its sponsorship strategies to assure both the association and the sponsor benefit from the partnership.

IDR Responses Relevant to Print Media Broker/Representative Programs

Response dated March 11, 20XX

Per the Bylaws and Minutes of the organization, Founder is an Honorary Emeritus Board member because he was the Founder of the organization.

“Founder is currently a non-voting member of the Board. He last served on the CO-5 Board as a voting member in 20XX. Founder is the owner and president of CO-19 (CO-19) with several DBAs. The two DBAs relative to the ORG are CO-3 (CO-3) and CO-19 Publishing. CO-19 performs a number of activities commonly used by the organization’s members such as readership studies as well as acting as a print broker for advertising sales for which he is compensated.”

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The organization stated Founder received \$\$ for selling a \$\$ sponsorship for the 20XX CO-24.

Response dated June 17, 20XX

ORG's Treasurer, Treasurer, provided the following information in his response:

“As Hispanic newspapers and magazines, one of our journalistic roles is to create editorial content that supports the ongoing growth of the market. To economically support the creation of that content, Motto primarily depend upon sale of space for advertising and other advertising related activities. The ORG furthers the common interests of these publishers through its programs and activities along both the editorial and advertising dimensions.”

The response stated that ORG's Officers, Directors, and Board members attend many events sponsored by NHLA member organizations, to represent the Hispanic publishing industry. Most of these organizations have national or regional meetings, which the ORG attends on behalf of Motto.

“At many of these meetings, there is an exhibition area where ORG has been given a booth to promote the interests of the Hispanic publishing industry. Sometimes we would have staff members of ORG attend, other times, it may just be the local publishers or their staff in attendance. Over the years, the Hispanic Scholarship Guide and the Media Guide were two of the more regular handouts that were available from the ORG as well as samples of member publications.”

“The purpose of the Media Guide was to provide a directory of Motto so that interested organizations, individuals, or advertisers could directly contact these publications in order to send them press releases, arrange for interviews, or purchase advertising. The reality was that the Scholarship Guide and the Media Guide were given away for free at these events. If someone called the office and wanted a copy, the staff would attempt to sell it to them for about \$ a copy to offset the shipping costs. During the initial years of the media guide, the industry was much smaller and there really wasn't a comprehensive way for someone to know how to find a Hispanic publication in a market. Motto would purchase advertisements in the guide as a way to promote their publication within a market with the hope of generating advertising revenue. From the ORG prospective, these advertisements paid for the productions, printing, and distribution costs as well as contribute to the ongoing operating costs of the ORG. The ORG lacked the internal resources to produce this guide and relied on external resources such as Founder's organization and others to gather the information, produce, and print the book. The guide became a major vehicle for the ORG to facilitate the growth of the Hispanic publishing industry by providing a directory that simplified the process for identifying and contacting publications within a given market.”

The following description of ORG's Procurement Committee is also drawn from ORG's response, dated June 17, 20XX, to the Information Document Really issued on May 6, 20XX:

The Procurement Committee has a weekly conference call to coordinate its actions.

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“Interested publications and our print broker, CO-2-Access, meet on this call to discuss our initiatives. CO-1 has a higher degree of access to many of the corporation’s marketing partners due to their work. ORG has greater access to corporate decision makers through our ability to leverage the industry’s supplier diversity credentials. Taken together, we are able to present a consistent message across all levels of the buying chain.”

The taxpayer stated representatives of the Procurement Committee, on behalf of ORG, have given presentations of different variations on the State of Hispanic Newspapers over 50 times in the last 18 months.

“The ORG sponsors quarterly regional seminars comprised of a series of workshops around common industry issues. Many of these workshops deal with the advertising sales component of the publishing industry. These seminars are open to ORG members and non-members. CO-1 helps fund the costs of the seminars. They also help prepare appropriate training and information materials that will help seminar participants grow their publications. Another area of important collaboration between the ORG and the print broker is in the area of conducting marketing research on the industry, tracking competitive advertising spending levels, etc. The information helps the ORG make a more persuasive case on the importance of the Hispanic publishing industry.”

ORG stated Founder was one of the founders of ORG and played an integral role in the start-up and running of the organization. He served as the first President of the ORG Board from 19XX to 19XX, but, has not been a board director or officer since that time. From 19XX through 19XX, Founder served as the Coordinator of the ORG, which was a “modestly paid part-time position that helped further the mission of ORG.” Founder became a Board Member of the CO-5 (CO-5) with its founding in 19XX.

ORG stated its minutes confirm that Founder had left the CO-5 Board sometime prior to the August 26, 20XX Board meeting (the taxpayer believes he stepped down in 20XX). Founder operates two companies: CO-19 (CO-19) and its subsidiary, CO-3 (CO-3). CO-3 (CO-3) was the print broker affiliated with ORG from 19XX - 20XX. According to Founder, CO-3 paid a fee to the ORG that was based upon a percentage of sales. He recalls the dollar range to be between \$\$ to \$\$ annually.

From 19XX to 20XX, CO-3 is listed as a print broker affiliated with the ORG. However, the ORG stated it was unable to find any written agreements concerning the relationship nor any references detailing if ORG received remuneration for the recognition. Currently, CO-3 is listed on the ORG website as a media sponsor. The taxpayer stated:

Response dated September 26, 20XX

ORG’s accountant did an in-depth review of the general ledger to determine there were instances in which the organization was involved directly in commercial transactions, during the 20XX to 20XX time frame, which directly benefited members. These were detailed as follows:

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Time Period	Payor (to ORG)	Amount paid to ORG (less credit card fees)	Amount ORG Paid to Member Publications	Net Profit or (Loss)
Second half of 20XX	CO-4	\$\$	CO-10 CO-6 CO-5 CO-15 Total =	
October 20XX	CO-31	No records	Extra Publications	Not sure because records missing
November 26, 20XX	CO-32 (CO-32)		CO-1 <u>Commission</u> \$ Net This money was used to advertise in 9 member publications	\$
Late 20XX	CO-33	Records not complete	CO-34 Each participating member received \$ Records not complete to get total	Not sure – records incomplete

Excerpts from ORG Contract with CO-1 (later renamed CO-1/Currently named Re: fuel) Relevant to Print Media Broker/Representative Programs :

“CO-1 shall be ORG’s exclusive representation in connection with newspaper advertising and placement services for ORG’s member newspaper publications (“Ad Services”) as more fully set forth herein and in Exhibit A.”

“ORG shall have the right to solicit advertising for placement in ORG’s member publications (“ORG Ads”), however (i) all ORG Ads shall be actually placed by CO-1 and (ii) ORG shall coordinate its advertising solicitation activities with CO-1 so as to maximize process efficiency. ORG shall not permit or cause to permit any other entity to perform Ad Services for any member newspaper publication nor shall ORG permit any such entity to display or otherwise utilize ORG’s Marks (as that term is defined below). At all conventions hosted by or sponsored by ORG, CO-1 shall be exclusively designated and be accorded the top level sponsorship credit offered by ORG in all signage, promotional material, advertisements and publications related to or referencing such conventions. In the event ORG created, develops

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or endorses any supplement or other insert for placement in any ORG member publication, then CO-1's placement and exclusivity rights shall extend to such supplements."

"CO-1 shall retain a commission ("CO-1 Commission") in the amount of _____ (%) of Net Advertising Revenue in connection with the results of Ad Services." ORG shall receive a commission ("ORG Commission") in the amount of _____ (%) of all monies actually received by CO-1 as Net Advertising Revenue from advertising leads initially referred by ORG's Board and staff to CO-1. 'From leads initially referred' means any reCO-28 or quote for advertising referred to CO-1 by letter, fax, e-mail or other appropriate documents by ORG's Board and staff. CO-1 and ORG shall work together to secure placements from such leads." In the event ORG secures ORG Ads without the assistance of CO-1, then ORG shall receive a commission of % with regard to such placements to the extent that CO-1 receives a commission from such placements."

The contract provides that CO-1 will quote ORG member rates based on published rate cards submitted by ORG member publications. ORG shall provide assistance to secure the CO-1 Commission and Preferred Rate and in requiring ORG member publications to honor such granted commission and rates. ORG shall have the right to arbitrate any rate or commission disputes between CO-1 and ORG's member publications.

CO-1 and ORG shall meet at least monthly to discuss sales leads and ORG Ads coordination. The head of CO-1 sales, the head of CO-1 media and data, the BODs and representatives of ORG shall also meet quarterly to discuss sales figures, projections and new accounts and resolve all newspaper issues, marketing issues and such other issues as the parties so determine.

CO-1 shall have the right to utilize ORG's name and logo in connection with the Ad Services, including but not limited to, the right to state that CO-1 is ORG's Exclusive Official Sales Representative in connection with Ad Services and all advertising activities related to ORG member publications solely with ORG's prior written consent.

"As additional compensation for all of the rights granted to CO-1 by ORG, CO-1 shall pay to ORG the sum of _____ (\$\$) Dollars as an annual license fee ("License Fee") payable in four (4) payments of equal amounts due on March 31, June 30, September 31, and December 31. ORG shall render a separate invoice to CO-1 for each of the License Fee installments."

From Exhibit A: Ad Services consist of the following:

1. Developing and utilizing sales materials needed to promote Motto
2. Selling advertisements in member publications directly to ad agencies, corporations and government agencies in coordination with ORG
3. Consulting with ORG member publications' sales staff to promote and market national advertisement among ORG's members

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4. Promoting, marketing and encouraging ad agencies, corporations and government agencies to purchase Hispanic print in coordination with ORG
5. Developing and maintaining a comprehensive database of all ORG member accounts, ad agencies, corporate accounts, government accounts and publications in the group-buy
6. Handle and maintain all back office services related to advertising under the Agreement including media buying, billing and collections
7. Disclosing to the ORG Board the criteria for selection of publications resulting in a quote for a non-ORG member publication over a member publication in a quote and ad placement when using the ORG name and logo in securing the advertising account

From Exhibit B: ORG's service obligations consist of the following:

1. Preference and first opportunity to participate, in connection with advertising, marketing and promotional activities, should be given to CO-1
2. Provide CO-1 names and addresses of new members within 30 days of membership acceptance
3. Permit CO-1 use of logo and name for marketing efforts in coordination with ORG
4. Promoting and encouraging its members to utilize CO-1
5. Assisting in developing of individual one page Point of View (POV) promotional pieces highlighting distinctive marketing characteristics of each ORG member publication
6. Prominently indicating that CO-1 is the "Exclusive Official Sales Representative" of ORG on the ORG's website and other marketing collateral
7. Providing CO-1 with access to the ORG Media Kit and other research sponsored, owned or controlled by ORG
8. Targeting selected advertising categories for a combined CO-1 & ORG sales effort to be mutually agreed upon
9. Protecting the integrity of this Agreement by actively assisting CO-1 in securing materials, action and information from member publications

Excerpts from ORG Publications Relevant to Print Media Broker/Representative Programs

From 20XX National Association of Motto Media Kit & Resource Book: (The organization could not provide a more current publication but stated the publication provided is representative of current editions because the publication has remained unchanged.)

- The front cover of the publication includes the logos of both ORG and of CO-3.
- The listed sale price is \$.
- The Lead Researcher for the publication is Founder.
- The publishers are listed as National Association of Motto and CO-19 Publishing.
- Taken from Page 1: Titled "Using the Media Kit": "We want to make it easy for you to place ads in our member publications: you make one call; get the information you need; place with as many or as few publications as you wish; and get one invoice."
- Page 1: "We do the Media Kit on an annual basis-with publications during the summer prior to the year end listed in the title. This way the book becomes your opportunity guide for planning your

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buys for the upcoming year. We are anxious to provide you with whatever information YOU need to enable you to place more ads in ORG publications.”

- A letter from ORG’s President, President, is on page 2 and addresses how to assure your advertising strategy is a sound investment by selecting the publications of ORG to advertise.
- Page 3 provides a list of the 20XX-20XX Board Members of ORG.
- The publication includes multiple advertisements for ORG member publications.

From The Convention Program Book, 25 Años Silver Anniversary Special Edition

ORG members receive the following benefits:

- Advertising Sales Representation: “Advertising sales representation by one of the largest National Newspapers Rep. Agencies: CO-38, CO-1.”
- Opportunity to Participate in Seminars: “Opportunity to participate in seminars offered to corporate executives, federal officers and advertising agency representatives on how to advertise effectively in ORG member publications. These seminars include information on ORG publications, its audience and markets.”
- Inclusion in our Website: Inclusion of your free Directory profile on ORG website (website)
- One Free Profile Page in ORG Directory: “One free profile in ORG Directory sent every year to over 1000 advertising agencies, corporations, government officials, colleges and universities, and community organizations to promote the use of Hispanic press. As member you are entitled to receive a free copy of the Directory.”
- A Link from website: A link from our website to your website
- Special Rates: “Special ORG Member Rates, -for active members only- by News Agencies, such as CO-35, CO-36 or CO-37, and other vendors.
- Networking Opportunities: “Networking opportunities with media buyers, like the Advertising Round Tables at the Convention and the CO-25.”

From the back cover of same publication:

“ORG delivers more impressions than any other Spanish language publishing network in the USA: Unique publications targeting specific segments of the Hispanic market; Special Events nationwide to amplify your message and access; More than 20 million reasons to advertise through us.”

“ORG: The ‘Go To’ Group For Hispanic Advertising Services.” ORG will “assemble an expert team to review your campaign plans with you, produce a media proposal to each your target market and generate ROI for your company.” The publications then provides a phone number and email contact, for the organization, where inquiries can be made for ad placement in ORG member publications.

From the Annual Membership Directory :

The publication’s stated purpose is:

- “To promote all active members of ORG” and “to facilitate advertising in ORG member publications”.

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- “The information in this directory has been organized by regions to offer corporations, ad agencies, and other business the most effective and easy way to place advertising and reach consumers in the ever expanding Hispanic Market.”

Members of ORG receive the following benefits:

1. Advertising sales representation by one of the largest National Newspapers Rep. Agencies: CO-38, CO-1
2. Participation in our annual, nationwide Award competition. Only active members of ORG, can participate in this contest
3. Opportunity to participate in seminars offered to corporate executives, federal officers and advertising agency representatives on how to advertise effectively in ORG member publications. These seminars include information on ORG publications, its audience and markets
4. *One free profile in ORG Directory sent every year to over 1000 advertising agencies, corporations, government officials, colleges and universities, and community organizations to promote the use of Hispanic press. As member you are entitled to receive a free copy of the Directory”*
5. Inclusion of your free Directory profile on ORG website (website); a like from our website to your website
6. Special ORG Member Rates
7. Networking opportunities with media buyers, like CO-39 at the Convention and CO-25
8. Free access to a bank of local and national news and photos, provided by member publications, to share with other members
9. Special introductory subscription rates for industry trade publications, like CO-40 and CO-41

In bottom corner of every right side page of the publication:

“ORG: The Go-To Source for Hispanic Print Ad Placement”.

From the back cover of same publication:

- 20XX ORG Advertising Services” – “More than 20 million reasons to advertise through us”
- ORG: The ‘Go To’ Group For Hispanic Advertising Services”
- ORG will assemble an expert team to review your campaign plans with you, produce a media proposal to reach your target market and generate ROI for your company. To inquire about ad placement in ORG member publications: Call us at p. Phone f. Fax or email website.

Excerpts from ORG’s Website (website) Relevant to Print Media Broker/Representative Programs:

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Currently, the organization's homepage (website) gives information on the organization's upcoming events from July 21, 20XX to November 11, 20XX. Two events included are restricted to members only and are as follows:

1. A webinar on "CO-1 Services to ORG members"
2. A two day event entitled "ORG and CO-1 Ad Agency CO-42"

The homepage states the 20XX ORG Membership Directory will be distributed to advertising, marketing and public relations firms, media placement companies as well as federal and corporate procurement officers and diversity officers of national corporations. The Directory will include a list of all ORG members with photographs of the publishers and the publication logo on the front page, a list of previous Jose Marti Award winners, upcoming events information, and information from partner organizations that support ORG. An email address is also listed to be used for securing ads in the directory and for submission of membership information. The Directory is scheduled to be released in early summer 20XX.

The website provides a 20XX membership dues structure that includes various pricing for membership categories in which include students, professors, photographers, graphic artists and designers, Hispanic book authors, marketing, advertising and PR consultants, suppliers and printers, radio partners, television partners, news and public relations wire servicers, advertising agencies, media buying agencies, public relations and public affairs firms, association publications, and national and international corporations, and international publications. These members can not vote or hold office. Membership also includes General and Associate categories consisting of daily publications, weekly publications, bi-weekly publications, monthly publications, and online publications.

ORG Member benefits (with a 20XX copyright) according to the website:

1. Make Sales Contacts: Opportunity to participate in periodic procurement and ad seminars to corporate executives, federal officers and advertising agency representatives on how to effectively advertise in ORG member publications
2. Raise Your Profile: Free profile page in the ORG Membership Media Kit sent every year to 800 advertising agencies, corporations, government officials, colleges, and universities, and community organizations to promote the use of Hispanic Press
3. Free On-Line Listing: The Media Kit is also posted in the members area of ORG's website
4. Readership Research: Access to readership studies with valuable information about Hispanic reader demographics and product usage by Hispanic consumers
5. Learn About Trends: Access to research studies on the state of the Hispanic community, Hispanic print, advertising in Hispanic print, and other topics of interest
6. Member Discounts: Substantial discounts from agreements with different vendors, negotiated by ORG

"Placement Services" are only available to General Members. These are described as follows:

"ORG annually contracts with a reputable national agency to serve as the Print Placement/Sales Representative for ORG members."

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Posted on the website is the "ORG Procurement Committee" presentation/brochure, which includes the following excerpts:

"The purpose of the ORG Procurement committee is to build advertising revenue for member publications. It is a collaborative effort between CO-1, ORG's official rep firm, and member publications. The focus is on the procurement divisions of major Fortune 500 companies, their advertising agencies, media buying services as well as national, state, and local governments. The goal is to increase their financial commitment to Motto as measured by the size of their advertising buys."

"Meets weekly via a conference call to discuss the outcomes from prior activities and well as discuss future plans. CO-1 also reports on the activity of their regional divisions. Procurement committee members are also expected to help in achieving the committee's goals in between the weekly conference call."

"Why you should you join? As a publisher, joining ORG Procurement Division is a great way to obtain:

- The latest industry knowledge you can use to grow your publication
- Exposure to the variety of approaches different publications and CO-1 use to sell their publications.
- These tools help you to become a better spokesperson of our industry and your publication.
- A national perspective that you can adapt to local market conditions.
- Increase dollars for your publication.
- Each week we give you contacts and we receive the information of many of the most influential Hispanic advertising leaders in the country. We have already seen dollars from the CO-47 and CO-46, and are in the works with CO-43, CO-44 and CO-45, just to name a few.
- Virtually all publications want to grow their national and regional advertising revenue. However, that is a very difficult task if all a publication wants to do is sit back and expect the orders to roll in. The Procurement Committee reflects the ORG's commitment to provide the tools and collaboration to help insure everyone's success."

"As a ORG member publication participation in the Procurement Division is available as part of your membership."

LAW

Section 501(c)(6) of the Code, defines business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues as not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class

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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.

In Revenue Ruling 56-65, a local organization whose principal activity consists of furnishing particular information and specialized individual services to its individual members engaged in a particular industry, through publications and other means to affect economies in the operation of their individual businesses is performing particular services for individual persons. Such organization, therefore, is not entitled to exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code of 1954 as a business league even though it performs functions which are of benefit to the particular industry and the public generally.

In Revenue Ruling 56-84, an organization operated primarily for the purpose of promoting, selling, and handling national advertising in its members' publications was denied exemption because the organization's primary activities were found to constitute the performance of particular services for individual members as distinguished from activities for improvement of business conditions of its members as a whole.

In Revenue Ruling 57-453, an organization which engages in the publication of the anthologies of its members and which enters into contracts for programs on the radio and television based on the anthologies, serves as a vehicle for the publication of materials of its members by calling attention to their professional work and thereby increases the salability of the writers' efforts. Such organization is engaged in a business for profit and its activities were found to constitute the performance of particular services for individuals. As such, the organization is not entitled to exemption from Federal income tax under the provisions of section 501(c)(6) of the Internal Revenue Code of 1954.

Revenue Ruling 59-391, C.B. 1959-2, 151 holds that an organization, composed of individuals, firms, associations, and corporations, each representing a different trade, business, occupation, or profession, is not exempt from Federal income tax under section 501(c)(6) of the Code where it is organized for the purpose of exchanging information on business prospects and its members have no common business interest other than a desire to increase their individual sales.

Revenue Ruling 64-315 concluded that an association of the merchants in a particular shopping center whose advertising material contained the names of the individual merchants did not qualify for exemption because advertising that carries the names of members generally constitutes the performance of particular services for members.

Revenue Ruling 65-14 holds that an organization whose primary activity consists of publishing a tourists guidebook advertising the products, services, and names of member merchants is not exempt under 501(c)(6).

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Revenue Ruling 68-264 defines a particular service for the purposes of section 501(c)(6) of the Code as an activity that serves as a convenience or economy to the members of the organization in the operation of their own businesses.

In Revenue Ruling 68-265, it states that a tax-exempt business league will lose its exemption because it performs particular services for individual members only where the services are a principal or sole undertaking of the organization.

Revenue Ruling 76-409, relating to an organization that publishes and distributes to its members' customers and potential customers a directory containing members' names and numbers, was denied exemption because the organization's activities were found to constitute the performance of particular services for individual persons.

In Revenue Ruling 79-370, a 501(c)(6) organization publishes a membership directory sold only to members and containing no commercial advertisements. The publication is not distributed to the public and the members receive no private commercial benefit from the publication. As such, the publication was found to be substantially related to the organization's exempt purpose and not an unrelated trade or business within the meaning of section 513.

Revenue Ruling 81-175 defines the term "particular services" for the purposes of section 501(c)(6) of the Code, as acting in a manner which provides an economy or a convenience for members in the operation of their own businesses.

Revenue Procedure 95-21, 1995-1 C.B. 686 established that associate member dues payments received by IRC section 501(c)(5) organizations would be treated as gross income from the conduct of an unrelated trade or business under IRC section 512, if the associate member category was created for the principal purpose of producing unrelated business income.

Revenue Procedure 97-12, 1997-1 C.B. 631 amplified the Revenue Procedure 95-21 to include IRC section 501(c)(6) organizations under its provisions.

In Southern Hardwood Traffic Ass'n v. U.S. 283 F.Supp. 1013 D.C.Tenn. 1968. March 13, 1968, the District Court, Bailey Brown, Chief Judge, held that an unincorporated association engaged in a regular business of providing the majority of its members with individual services of kind ordinarily carried on for profit was not a 'business league' entitled to tax exempt status.

In Automotive Electric Association v. Commissioner, 168 F.2d 366 (6th Cir. 1948), exemption was denied to an association that published catalogues that listed only products manufactured by the members.

In American Automobile Association v. Commissioner, 19 T.C. 1146 (1953), the Association was held not to be exempt as a business league under IRC 501(c)(6) because, notwithstanding its broad purposes to

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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.

The presence of a single substantial nonexempt purpose can destroy the exemption regardless of the number of exempt purposes. Better Bus. Bureau v. United States, 326 U. S. 279, 283, 90 L. Ed. 67, 66 S. Ct. 112 (1945); Am. Campaign Acad. v. Commissioner, 92 T.C. 1056, 1065 (19XX).

GOVERNMENT'S POSITION

The Internal Revenue Code and prescribed Treasury Regulations, contains six requirements an organization must meet in order to be exempt from federal income tax under 501(c)(6):

- It must be an association of persons having a common business interest, and its purposes must be to promote this common business interest
- Its activities must be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of services for individual members
- It must not be engaged in a regular business of a kind ordinarily carried on for profit
- No part of its net earnings may inure to the benefit of any private shareholder or individual
- Its primary activity cannot be performing particular services for members
- It must be a membership organization and have a meaningful extent of membership support

The sections below compare the facts and circumstances of this case to each of the six requirement in order to determine if ORG should remain exempt from federal income taxes under Internal Revenue Code Section 501(c)(6).

1. Members Have Common Business Interests (Improvement of Business Interests)

According to a current review of your organization's website (website), your membership is now open to audited and non-audited national and international publications, corporations, associations, firms, advertising agencies, news and public relations wire services, local television and radio stations, printers and print suppliers, consultants, authors, photographers, graphic artists and designers, professors, college students, and various other companies and individuals. Of all of the membership categories, only the publishers representing audited national publications are entitled to vote or hold office.

However, when you applied for exemption, you submitted your Articles of Incorporation in which stated membership was to be composed of only "owners of publications that target or market to the Hispanic population within the United States and publications whose primary language is Spanish" (either of which were required to be Hispanic-owned or Hispanic-operated). As such, your membership has changed and no longer meets the requirements of an organization exempt from federal income taxes under Internal Revenue Code section 501(c)(6).

You are similar to the organization described in Revenue Ruling 59-391 where an organization composed of individuals, firms, associations, and corporations, each representing a different trade, business, occupation, or profession, was denied exemption from federal income tax under section 501(c)(6) of the Code. The

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ruling held that the membership was composed of individuals from a variety of professions with no common business interest other than a mutual desire to increase their sales.

Your activities are not directed to improving the industry as a whole, but rather to the promotion of the private business interests of your individual members. Your membership is open to all persons or enterprises and is no longer limited to those publications that are Hispanic owned, Hispanic operated, or those that target the Hispanic population. Your membership is now open to enterprises that have no Hispanic element to them at all. Membership in ORG is available to individuals, companies, association, etc. without regard to their business interests or activities. You created "Corporate Council" membership category was created for companies such as CO-18, CO-27, CO-28, CO-29, CO-48, CO-49, CO-50 (CO-50), CO-51, CO-52, CO-23, CO-53, CO-16, and CO-54, among others.

Your members do not have a common business interest relative to the Hispanic publishing industry. All persons are eligible for membership in ORG. Therefore, you do not meet this test.

2. Activities directed to improvement of business conditions of one or more lines of business as distinguished from the performance of services for individual members

Your Form 1024, *Application for Recognition of Exemption Under 501(a)*, indicated that your organization "does not provide any payments to members or shareholders for services performed nor does it provide insurance for members, their dependents, or others." Our examination, however, determined that most of your activities benefit your individual members as opposed to the Hispanic publishing industry as a whole. You provide payments to your members for services as well as providing payments to your members for products and services commercial in nature that are normally carried on by a for-profit entity.

Your organization runs a print media broker/representative program that assists interested advertisers in purchasing advertising in your members' publications. As discussed above, your organization is involved in the sales both directly and indirectly. You have contracts with both print media brokers and advertising representative and placement agencies. You are compensated for facilitating advertising sales by providing lists of Motto that meet the advertisers' intended markets.

In Revenue Ruling 56-84, the purpose of the organization was to assist in the promotion and sale of advertising in publications owned and controlled by member cooperatives selling a specified product. Your organization is similar in that you often handle and/or sell advertising space in your members' publications either directly or indirectly through a contract with a print media broker or representative. The organization in Revenue Ruling 56-84 was denied exemption from federal income tax as a business league because it was determined the organization's primary activities were promoting, selling, and handling the national advertising in its members' publications and these activities were found to constitute the performance of particular services for individual members as is distinguished from activities for improvement of business conditions of its members as a whole.

In Southern Hardwood Traffic Ass'n v. U.S. 283 F.Supp. 1013 D.C.Tenn. 1968. March 13, 1968, the District Court, Bailey Brown, Chief Judge, held that an unincorporated association engaged in a regular business of

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providing the majority of its members with individual services of kind ordinarily carried on for profit was not a 'business league' entitled to tax exempt status.

Your organization is also similar to the organization found in Revenue Ruling 56-65, whose principal activity consists of furnishing information to and advertising the products of its members engaged in a particular industry through publications and other means to affect economies in the operation of their individual businesses. The organization was found to have been created and primarily operated as a service to its individual members. Accordingly, the organization was found not to be entitled to exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code as a business league even though it did perform some functions which are of benefit to the particular industry and the public generally.

This is similar to your organization in that you do conduct some minor activities that are of benefit to the entire Hispanic publishing industry. However, even those activities have a commercial aspect to them and are intended to benefit your members by having an advertising representative and placement services firm or a print broker present to facilitate the sales for your members. If your organization hosts an event in which a representative or print broker is not present, your organization and its board members then take over the role of the print broker, and facilitate the sales directly with the advertiser.

In Revenue Ruling 57-453, an organization which engages in the publication of the anthologies of its members and which enters into contracts for programs on the radio and television based on the anthologies, serves as a vehicle for the publication of materials of its members by calling attention to their professional work and thereby increases the salability of the writers' efforts. Such organization is engaged in a business for profit and its activities were found to constitute the performance of particular services for individuals. As such, the organization is not entitled to exemption from Federal income tax under the provisions of section 501(c)(6) of the Internal Revenue Code of 1954.

In addition to the advertising program, the facts show that each of your members also receive a free profile in your annually published "Membership Directory" which is distributed at all of the organization's activities and is available for purchase at any time during the year. Your activity of producing and disseminating this directory is similar to the activity of the organization in Revenue Ruling 57-453.

Revenue Ruling 64-315 pertains to an association of merchants who engages in advertising in various newspapers and on television and radio. The advertising contained the names of the organization's members and their merchandise. Consequently, the ruling holds that the organization is not entitled to exemption from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code of 1954 because advertising that carries the names of members generally constitutes the performance of particular services for members. You are similar to the organization in Revenue Ruling 64-315 in that your Member Directory (and Media Guide) contains information on your member publications and is distributed to the public. Your publication is meant to serve as a vehicle for increasing your members' profits. The publication does not substantially contribute to the accomplishment of your exempt purpose.

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Revenue Ruling 76-409 reached the same conclusion: An organization that publishes and distributes to its members' customers and potential customers a directory containing members' names and numbers, was denied exemption because the organization's activities were found to constitute the performance of particular services for individual persons. This particular Revenue Ruling is very similar to your organization and its activities in that the organization distributed an annual directory consisting almost entirely of members' names, addresses, and telephone numbers and was distributed free to those members of the business community who were likely to require the services of the profession. The organization's activities also include holding a yearly convention; sponsoring a booth at various industry trade shows; continual policing of membership with respect to qualifications, effectiveness, and conformity to Federal, state, and local laws; publishing a monthly newsletter and a few other activities not applicable here.

The organization found in Revenue Ruling 65-14 is also similar to your organization in that the organization distributed a publication consisting largely of paid advertisements for its members. The organization in the Revenue Ruling was found not to be entitled to exemption from Federal income tax under section 501(a) of the Internal Revenue Code of 1954 as an organization described in section 501(c)(6) because the publication of advertising matter containing listings of the names of individual members constitutes advertising for the individuals so advertised and is thus considered the performance of particular services for such individuals, rather than an activity aimed at the improvement of general business conditions.

The activities of your organization are similar to those of the organization in Automotive Electric Association v. Commissioner, 168 F.2d 366 (6th Cir. 1948), where exemption was denied to the association because it published catalogues that listed only products manufactured by its members. In American Automobile Association v. Commissioner, 19 T.C. 1146 (1953), the Association was held not to be exempt as a business league under IRC 501(c)(6) because, 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.

Conversely, in Revenue Ruling 79-370, an organization produces a publication that does not pose risk to the organization's exempt purpose. But this organization differs greatly from your organization and its activities. In the Ruling, a 501(c)(6) organization does publish a membership directory but the directory is sold only to its members and contains no commercial advertisements. The publication is not distributed to the public and the members receive no private commercial benefit from the publication. As such, the publication was found to substantially contribute to the achievement of the organization's exempt purpose. This is different from your organization in that you sell commercial advertising in your publication to anyone interested and also distribute your directory to the public. In addition, you send the publication to advertising firms, and other interested advertisers, with the hopes of increasing advertising revenue in your members' publications.

Your organization also provides many other benefits to its members as well as structuring many of its other activities in a manner that would benefit your members. For example, the excerpts taken from your Board of Director's meeting minutes above detail how your Board of Directors formed a "Small Business Development program" (also referred to in the minutes as a "small business committee") with the sole

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purposes of negotiating with companies that sell products or services that would benefit small publications and in securing funds from sponsors for member publications who provide advertising space to the sponsor. Your organization has also sought out and participated in trade deals where corporations would provide services (airline tickets, hotel stays, etc.) to your members in exchange for advertising space in your member publications. In some instances, you have even acted as an intermediary for your members by collecting funds from sponsors and passing them directly to your members without financial gain. There were also other situations noted in the minutes that generated revenue for your member publications.

Your organization performs services for its individual members and therefore fails this test.

3. It must not be engaged in a regular business of a kind ordinarily carried on for profit

As discussed above, your organization sells advertising or facilitates its sale. The sales may be in your own publications or in your members' publications. Advertising sales are a business ordinarily carried on for profit.

Because you are engaged in a regular business of a kind ordinarily carried on for profit, you fail this test.

4. No part of its net earnings may inure to the benefit of any private shareholder or individual

The Facts section delineates several instances in which your organization's founder or executive directors (Minutes taken from April 2, 20XX) were paid commissions for securing sponsorship monies (Page 7 in a response from your organization dated March 11, 20XX). The Facts section includes an admission that the organization has not taken steps to ensure that these transactions are arm's length transactions and that your organization is paying fair market value for the services it receives (Minutes taken from April 2, 20XX).

Some of your organization's net earnings have inured to the benefit of private individuals; therefore, you fail this test.

5. Its primary activity cannot be performing particular services for members

The print media broker/representative program has become a primary activity for your organization. Due to inadequate accounting methods and lack of accurate books and records, ORG and the Agent were unable to determine the total gross receipts from the advertising programs relative to the total gross receipts of the organization. You did, however, report "commercial in nature" payments to your members totaling over \$ in the second half of 20XX, \$ in 20XX, and close to \$ in 20XX.

You spend a significant amount of time on the print media broker/representative program. In fact, most of your other activities now have some type of advertising aspect to them in which the focus is securing advertising sales in your member publications. Again, these efforts do not benefit the entire Hispanic publishing industry and clearly represent specific services to your members.

Your print media broker/representative program is thoroughly described and implemented in:

- Minutes of your Board of Directors meetings,

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 20XX12 - 20XX12

- Excerpts from your publications,
- Excerpts from your website
- Contracts between you and various outside entities
- Individual actions taken by your employees and board members.

Therefore, your primary activity is one that performs particular services for members and you fail this test.

6. It must be a membership organization and have a meaningful extent of membership support
Although your organization has a meaningful extent of membership support, it has already been determined in #1 above that your organization's membership is open to anyone and not just those within the Hispanic publishing industry.

TAYPAYER'S POSITION

ORG agrees with the Government's position in that the organization does not continue to qualify for exemption under Internal Revenue Code Section 501(c)(6). As such, ORG signed Form 6018-A, *Consent to Proposed Action*, in which it consents to the revocation of the organization's exempt status as of January 1, 20XX.

In addition, ORG has agreed to file Forms 1120, *U.S. Corporation Income Tax Return*, to report the income, gains, losses, deductions, credits, and to figure the income tax liability of the corporation for the 20XX tax year to the current tax year end.

CONCLUSION

ORG does not continue to qualify for exemption under Internal Revenue Code Section 501(c)(6) because its primary activities constitute the performance of particular services for the individual members, which are commercial in nature.

Exempt status of ORG under Internal Revenue Code Section 501(c)(6) should be revoked as of January 1, 20XX.

ORG is liable for filing Forms 1120, *U.S. Corporation Income Tax Return*, to report the income, gains, losses, deductions, credits, and to figure the income tax liability of a corporation beginning with the tax year ending December 31, 20XX.