



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Release Number: **201649017**
Release Date: 12/2/2016
UIL Code: 501.06-00
501.06-01

Date: September 7, 2016
Employer ID number:
Contact person/ID number:
Contact telephone number:
Form you must file:
Tax years:

Dear _____ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(6) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date: July 25, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

N = Store

O = Franchisees of a particular store

P = State

T = Date of incorporation

UIL:

501.06-00

501.06-01

Dear _____ :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(6) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under section 501(c)(6) of the Code? No, for the reasons explained below.

Facts

You were incorporated in the state of P on T. While you were formed as a non stock corporation, your Articles of Incorporation contain no purpose clause. You did not submit a copy of your Bylaws.

You were formed by the owners of N stores. You list your primary functions as:

1. Educating and helping franchisee members with the N's current and new policies;
2. Communicating and finding resolution of member owners issues to N's executives;
3. Presenting and communicating the unresolved and disputed issues of franchisees to the O president group;
4. Hosting trade shows with the vendors for the mutual benefit of franchisees and vendors. This provides franchisees the opportunity to build one-to-one relationships with the vendors and vice-versa.

Your membership is limited to N franchisee owners. Your revenue is exclusively from membership fees. You forward a fourth of the membership fees you receive from members to O. Your other expenses include advertisement, meeting expenses, membership fees, trade show expenses, event expenses, and travel expenses.

You are governed by your Board of Directors chosen by your membership. All members of your Board of Directors serve without compensation.

Law

Section 501(c)(6) of the Code provides for exemption of business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues (whether or not administering a pension fund for football players), which are not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(6)-1 states that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization, whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

Revenue Ruling 58-294, 1958-1 C.B. 244, holds that an association of licensed dealers in a certain type of patented product did not qualify as a business league. The association in this ruling owned the controlling interest in the corporation that held the basic patent of the product, it engaged mainly in furthering the business interests of its member dealers, and it did not benefit businesses that manufactured competing product of the same type covered by the patent.

Rev. Rul. 66-338, 1966-2 C.B. 226 describes an organization that was formed to promote the interests of a particular retail trade and is not exempt from federal income tax under Section 501(c)(6) of the Code because it advises its members in the operation of their individual businesses and sells supplies and equipment to them.

Rev. Rul. 67-295 states that an organization, composed of businessmen, may qualify for exemption where its activities are limited to holding luncheon meetings devoted to a discussion, review, and consideration of the various problems in a particular industry directed to the improvement of business conditions for the industry as a whole.

Rev. Rul. 68-182 states that the Internal Revenue Service (Service) will not, in similar cases, follow the decision entered by the United States Court of Appeals, Seventh District, in Pepsi-Cola Bottlers' Association, Inc. v United States. In that case members engaged in the bottling and sale of a single franchised soft-drink product. Their purposes and activities were directed to the more efficient production and sale of that product. It is the position of the Service that organizations promoting a single brand or product within a line of business do not qualify for exemption under Section 501(c)(6) of the Code.

In National Muffler Dealers Association, Inc. v. United States, 440 U.S. 472, Ct. D. 1997, 1979-1 C.B. 198 (1979), the Court held that an organization of muffler dealers franchised by Midas International Corporation did not qualify for exemption from federal income tax as a business league under Section 501(c)(6) of the Code. The organization's purpose was too narrow to satisfy the line of business test of Treasury Regulation Section 1.501(c)(6)-1.

Application of law

You are not a business league as described in Section 501(c)(6) of the Code and Treas. Reg. Section 1.501(c)(6) because you are not organized to and your activities are not directed to improving business conditions of one or more lines of business as defined under this subsection. Rather, you are formed to provide particular services to your members.

You are not as described in Treas. Reg. Section 1.501(c)(6)-1 because your activities are not directed to the improvement of business conditions of one or more lines of business and you are formed to provide particular services to your members.

You are similar to the organization described in Rev. Rul. 58-394. You promote the 'product' of N businesses. Membership is only open to those who own the specified 'product' – an N store. You are engaging in activities that further the interests of the N franchise owners rather than store owners in general. Like that organization, your activities only benefit and promote the interests your members and not the industry as a whole.

You are similar to the organization in Rev. Rul. 66-338 in that you advise your members in the operation of their individual N businesses and help them network with vendors. This is a service for the convenience of members and does not promote or improve a line of businesses in general.

You are not similar to the organization described in Rev. Rul. 67-295. Your membership is restricted to franchisee owners of O. Your activities do not address the various problems in a particular industry, nor are they directed to the improvement of business conditions for that industry as a whole. Rather, your activities address issues and conditions of one particular store, N.

The Service's position outlined in Rev. Rul. 68-182 applies to you. The promotion of a single business franchise within a line of business does not qualify for exemption under Section 501(c)(6) of the Code. Your activities are all directed toward franchise owners of N, and all your members are owners of N.

You are similar to the organization described in National Muffler Dealers Association, because your activities serve members who are specific franchise owners. You provide particular services toward particular franchisees which does not represent one or more line of businesses. Therefore, you are precluded from exemption under Section 501(c)(6) of the Code.

Your protest

You submitted a protest in response to our proposed adverse determination letter. The protest included a completed Form 1024 application in which you deleted references to N.

We asked you to clarify discrepancies between the two applications, provide information regarding any non-N franchisee members, confirm whether webpages printed from the internet were from your website, and to confirm the service of submitting N member dues to O.

In your response to our inquiries you indicated that you are part of another organization that is a coalition of franchisee owners. That coalition consists of several franchise owner associations including your organization, other N franchise owner associations and non-N franchisee owner associations according to its website. You state that because you are part of the other organization, you started educating convenience store owners as well as other franchisees.

You state that you will enroll members that are not N franchisees later this year.

You indicated the majority of your members are N franchisees and you discuss issues and concerns of N corporations.

You communicate with four other businesses that are not N franchisees. You, along with these businesses, have met with the city police chief to ask for more police patrolling of your convenience stores due to ongoing robberies.

You confirmed that web prints we provided to you are in fact pages printed from your website. You state that you still have to amend the website. The pages include the N logo along with your name. One of the webpages includes links to N's website. The logo for N is displayed in the information describing your upcoming trade show. The N logo also appears on the newsletter prepared for your members.

You confirmed that you forward membership dues for each N member to the national franchisee owner's organization, O.

Our response to your protest

The information you submitted does not change our original determination that you do not qualify for exemption. You are formed for the benefit of N franchisee owners. This is evidenced by the fact that the name of N appears in your Bylaws, enrollment form, website, and membership listing. You forward membership dues to the national organization of franchisees.

The fact that you have met with other area businesses and the local police to discuss crime in your area does not override your true purpose, which is to advance the interests of N franchisee owners. Seeking mutual protection from law enforcement is not enough to support your claim that you advance the convenience store industry as a whole.

You have not explained how you educate and help franchisees with convenience store policies. You have not proven that you have access to the business policies of stores other than those of N in order to be in a position to educate and help.

You have not demonstrated how you communicate and find resolutions between various convenience store owners and their respective franchisor executives.

You have not provided evidence that you present and communicate unresolved and disputed issues of non-N franchisees to national non-N franchisor groups.

You have not provided convincing evidence that you represent the interests of convenience store franchisees owners industry-wide apart from N franchisee owners; therefore, you are not an organization described in Section 501(c)(6) of the Code.

Conclusion

You are not promoting an industry as a whole. You are organized and operated to promote the interests of your members who are franchisee owners of a particular company. Your activities are not 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. Accordingly, we conclude that you are not exempt under Section 501(c)(6) of the Code.

If you don't agree

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

For authorized representatives:

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, *Power of Attorney and Declaration of Representative*, with us if he or she hasn't already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*.

We'll review your protest statement and decide if you provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

Where to send your protest

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You can also fax your statement and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that he or she received it.

If you agree

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

You can find all forms and publications mentioned in this letter on our website at www.irs.gov/formspubs. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892