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Date:
January 12, 2024

LEGEND

Association	=
Association Standard 1	=
Association Standard 2	=
B	=
C	=
Board	=
D	=
Date 1	=
E	=
F	=
F Standard 1	=
F Standard 2	=
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Registrar	=
Year	=

Dear :

This letter ruling responds to a letter from your authorized representatives dated July 12, 2023, and supplemental documentation dated September 29, 2023, and November 29, 2023, requesting a ruling under section 511 of the Internal Revenue Code.[1]

FACTS

Association is a B nonprofit corporation recognized as described in section 501(c)(6) that represents nearly C members of the North American D industry. Association's members engage in a number of commercial activities across the D industry including the production, processing, and distribution of D products.

Association's mission is to promote safety in the D industry globally and to influence public policy in support of a viable American D industry. In pursuance of this mission, Association has developed more than E standards to enhance the operational and environmental safety, efficiency, and stability of the D industry. For example, Association develops standards establishing minimum quality management system requirements for organizations that manufacture products (or provide manufacturing-related processes) for use in the D industry as well as minimum environmental management system requirements that can help an organization prevent or mitigate environmental impacts (the "Association Standards"). Association Standard 1 is a quality management standard for manufacturers that is specifically designed to reflect the nuances of the D industry. Association Standard 2 is a quality management standard for service providers in the D industry. Association makes the Association Standards and underlying specifications available to interested parties for a nominal fee. Certain federal regulations require that D industry equipment be manufactured and certified to Association Standards or their equivalents.

In addition to developing the Association Standards, Association is familiar with similar standards promulgated by an unaffiliated third party, F. F is an independent, nongovernmental organization composed of members of the national standards bodies of G countries. F has assembled over H technical committees consisting of experts in their fields to develop internationally accepted standards that cover virtually all industries. F developed F Standard 1, which is the "world's best-known quality management standard," and F Standard 2, an internationally accepted environmental management standard (together, the "F Standards"). F Standard 1 sets forth minimum requirements for a manufacturing organization's quality management system. F Standard 2 specifies requirements for an effective environmental management system and requires that an organization consider all environmental issues relevant to its operations, such as air pollution, water and sewage issues, waste management, soil contamination, climate change mitigation and adaptation, and resource use and

[1] Unless otherwise noted, all section references are to the Internal Revenue Code of 1986, as amended (the "Code").

efficiency. Companies and organizations of all sizes and across industries, including the D industry, may adopt the F Standards when developing and implementing their management systems. Association Standards and F Standards are the most widely adopted management system standards in the D industry, and the subject matter experts at Association and F confer with each other in the development and maintenance of their respective standards.

The mere development and promulgation of management system standards, however, do not improve safety and environmental outcomes in the D industry absent implementation by industry participants. To facilitate the implementation of management system standards, Association also certifies D industry participants' compliance with certain Association Standards and the F Standards upon application (the "Certification Program"). Whether a D industry participant seeks certification to the Association Standards or the F Standards depends on where the participant operates—participants that operate domestically generally seek certification to the Association Standards, participants that operate abroad generally seek certification to the F Standards, and participants that operate within and without the United States often seek certification to both the Association Standards and the F Standards. Due to the technologically advanced nature of the D industry and the potential consequences of operational failures in the D industry, it is standard practice for D industry participants to implement and voluntarily certify their management systems to widely accepted industry standards like the Association Standards and the F Standards. A principal purpose of the Certification Program is to serve as a self-regulatory mechanism for the D industry to police its own safety practices while also improving overall commercial quality standards.

F does not certify organizations or facilities to the F Standards, Association has no financial or contractual arrangements with F, and Association does not pay any amount directly or indirectly to F in connection with the Certification Program. Association is accredited to certify D industry participants to the F Standards by Registrar's Board. Registrar is an unrelated public charity described in section 501(c)(3). Accreditation is not required for Association to certify facilities to the F Standards, though accreditation provides independent confirmation of Association's competence with respect to such certification activities. Association remits a percentage of the fees it collects for certifying applicants to the F Standards to Registrar.

Association's testing and certification activities under the Certification Program entail the performance of 1) initial facility audits, which form the basis for registration of new applicants, and 2) annual facility audits, which form the basis for the renewal of active certifications for registered facilities. Generally, an organization's facilities must meet the requirements of a particular standard on a facility-by-facility basis, though multiple facilities under a common management system may be certified together. Initial registration with the Certification Program involves at least two stages of audits. Stage 1 audits are performed on-site and require access to the applicant's personnel, internal

audit reports, management review records, and documents describing procedures, control features, staff responsibilities, and facility layouts. Stage 2 audits are also performed on-site and involve verification of the facility's conformance with the relevant standard. Auditors prepare a final audit report that is submitted to an Association review committee for consideration, and certification decisions are made on the basis of an evaluation of the audit findings and evidence of effective implementation of any corrective actions by the applicant, if required. A re-audit may be required before a facility is certified. Facilities certified to the Association Standards or the F Standards must annually undergo a full system audit to ensure continued conformance with the applicable standards.

Association applies the same audit procedures to assess an organization's quality management system for conformance with Association Standard 1 and F Standard 1 because the requirements of Association Standard 1 equal or exceed the requirements of F Standard 1. An organization certified to Association Standard 1 or Association Standard 2 is automatically certified to F Standard 1. Association offers F Standard 1 certification for no additional charge to organizations obtaining Association Standard 1 or Association Standard 2 certifications. Organizations certified to F Standard 1 or F Standard 2 may use Board-registered marks to demonstrate that a facility's management system meets the requirements of the applicable standard.

Certification through the Certification Program is available to members and nonmembers on identical terms, including fees. Audit fees are billed to applicants at cost plus an administrative mark-up. Additionally, Association charges a nonrefundable application fee and organizations must pay an annual fee (based on the number of facilities certified) to maintain their certifications. Association represents that fees charged are 1) necessary to defray actual program costs and set based on the budgetary needs of the Certification Program, and 2) not used to reduce member dues. Certification Program revenue covers the direct expenses of each certification, the costs of developing and maintaining the Certification Program, and the costs of developing and maintaining the Association Standards. Association's certification activities are limited to verifying a facility's conformance with the applicable standards and Association does not engage in consulting activities to assist in the design or implementation of an organization's management systems. In Year, Association's revenue from certifying facilities to the F Standards was $I, Association's revenue from certifying facilities to the Association Standards was $J, and Association's revenue from member dues was $K.

As of Date 1, Association has certified L facilities in M countries to the Association Standards or the F Standards through the Certification Program. Association maintains a web-based directory of registered facilities, which allows the public to search for organizations that have facilities certified to the Association Standards and the F Standards.

RULING REQUESTED

The income received by Association for certifying facilities to the F Standards in 2023 and subsequent taxable years is not subject to the unrelated business income tax imposed by section 511.

LAW

Section 501(c)(6) describes, among other organizations, business leagues not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treas. Reg. § 1.501(c)(6)-1 defines a business league as 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. A business league's 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 the purpose of which is to engage in a regular business of a kind ordinarily carried on for profit is not a business league.

Section 511(a)(1) imposes a tax on the unrelated business taxable income ("UBTI") of any corporation described in section 501(c)(6).

Section 512(a)(1) defines UBTI as the gross income derived by any organization from any unrelated trade or business regularly carried on by it, less the deductions allowed by Chapter 1 of the Code that are directly connected with the carrying on of such trade or business, both computed with the modifications provided in section 512(b).

Section 513(a) defines "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 is not 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 charitable, educational, or other purpose or function constituting the basis for its exemption under section 501.

Treas. Reg. § 1.513-1(d)(1) provides that evaluating whether a trade or business is substantially related to an organization's exempt purposes requires an examination of the relationship between the trade or business and the accomplishment of the organization's exempt purposes. Treas. Reg. § 1.513-1(d)(2) states that a trade or business is related to an organization's exempt purposes only if the conduct of the trade or business has a causal relationship to the achievement of the organization's exempt purposes, and a trade or business is substantially related only if the causal relationship is a substantial one. For a trade or business to be substantially related to an

organization's exempt purposes, such trade or business must contribute importantly to the accomplishment of those purposes. Whether a trade or business contributes importantly to the accomplishment of an organization's exempt purposes depends on the facts and circumstances involved.

Treas. Reg. § 1.513-1(d)(4)(i)(B), Example 3 describes a section 501(c)(6) trade association that presents a trade show to exhibit the products of industry members. The association derives income from charges to exhibitors for exhibit space and admission fees charged to patrons. The purpose of the trade show is the promotion and stimulation of interest in, and demand for, the industry's products in general, and it is conducted in a manner reasonably calculated to achieve that purpose. The example concludes that the association's trade show activities contribute importantly to the achievement of the association's exempt purposes; thus, income therefrom does not constitute UBTI.

In Rev. Rul. 70-187, 1970-1 C.B. 131, the IRS ruled that an organization formed by manufacturers of a particular product to conduct a program of testing and certification of the product to establish acceptable standards within the industry as a whole was described in section 501(c)(6). The organization's program was available to any interested manufacturer, regardless of membership in the organization, and approximately 90 percent of the manufacturers in the industry participated in the program. Manufacturers were permitted to display a "seal of acceptance" on certified products. The organization charged a fee sufficient to defray the cost of the program and the program did not replace or supplement ordinary testing and inspection procedures used by individual manufacturers. The IRS concluded that the organization's program to enforce product standards was a self-regulatory measure to prevent trade abuses in the industry, did not constitute the performance of particular services for individual persons, and that through the program the organization was engaged in activities directed to the improvement of business conditions within the industry as a whole.

In Rev. Rul. 73-567, 1973-2 C.B. 178, the IRS ruled that a medical specialty board that devised and administered written examinations to physicians in a particular medical specialty and issued certificates to successful candidates was described in section 501(c)(6). The board was 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 consisted of devising and administering written examinations and issuing certificates to the successful candidates in the medical specialty. Certified physicians were authorized by the board to hold themselves out to the public as specialists. A listing of certified physicians was made available to the public. By examining and certifying physicians, the board promoted high professional standards, thereby promoting the common business interests of the physicians.

In Rev. Rul. 81-127, 1981-1 C.B. 357, the IRS ruled that the certification of export documents by a chamber of commerce described in section 501(c)(6) was not an unrelated trade or business. The organization's primary purpose was to promote the commercial, financial, industrial, and civic interests of a particular community and its activities included the certification of the accuracy and authenticity of export documents. This service was available to members of the organization as well as to nonmembers for the same charge and was rendered primarily to freight forwarding companies with offices in the community. The main purpose of the certification of export documents was to provide an independent verification of the origin of exported goods and such certificates of origin generally were required before imports would be accepted in most foreign countries. The organization only certified documents representing goods of United States origin and documents were only certified if they conformed to the regulations of the United States Department of Commerce and other federal agencies. Because the organization's certification activity stimulated international commerce by facilitating the export of goods and, thus, promoted and stimulated business conditions in the community generally, such activity contributed importantly to the accomplishment of the organization's exempt functions.

In Rev. Rul. 70-80, 1970-1 C.B. 130, the IRS ruled that a trade association of manufacturers the principal activity of which was the promotion of its members' products under the association's registered trademark was not described in section 501(c)(6). The association established minimum quality standards for its members' products, which were then sold under the association's registered trademark name. The association's principal activity was the promotion of the trademarked products through various advertising media. Although membership in the association was available to all manufacturers in the industry, a significant number of manufacturers chose not to join the association. Only members were permitted to use the association's trademark even though nonmembers' products may have met the association's quality standards. Because the trademark was promoted by the association in a way intended to give members a competitive advantage over others in the same industry by extolling the superior quality of the trademarked products, the trademark promotion was not directed to the improvement of business conditions of the industry as a whole but was the performance of particular services for members.

In Rev. Rul. 67-394, 1967-2 C.B. 201, the IRS ruled that an organization that maintained a file of all open loans made by its members and furnished this information to members in order to prevent a borrower from obtaining small loans in excess of a specified sum at any one time was described in section 501(c)(6). The organization was formed in response to regulations issued by a state department of banking to promote proper control of consumer lending. The regulations recommended that no borrower should become liable to any two or more licensed small loan companies for over a specified sum and urged the exchange of applicants' names between such companies. Members agreed to clear the names of all applicants with the organization and were not permitted to make loans contrary to the state department of banking recommendations.

Membership in the organization was open to any licensed small loan company. By facilitating small loan companies' cooperation with the state department of banking, the organization furthered the common business interest of the particular line of business by protecting its membership as a whole from public criticism. Additionally, the IRS ruled that any resultant particular services for individual persons were incidental to the purpose of benefiting the industry.

In Rev. Rul. 68-265, 1968-1 C.B. 265, the IRS ruled that an organization that operated a credit information service as its primary activity was not described in section 501(c)(6) because such service was a business of a kind ordinarily carried on for profit. Additionally, the IRS stated that "[a]n activity that serves as a convenience or economy to members in the operation of their businesses is a particular service of the type proscribed" and determined that the exchange of credit information among the organization's members was "a clear convenience and economy to them in their businesses, resulting in savings and simplified operations."

In Rev. Rul. 81-174, 1981-1 C.B. 335, and Rev. Rul. 81-175, 1981-1 C.B. 337, the IRS considered whether organizations providing medical malpractice insurance and automobile reinsurance, respectively, were described in section 501(c)(6). In each ruling the IRS noted that "it is the nature of the activity that determines whether [an activity] is a business ordinarily carried on for profit" and concluded that the activities described therein were businesses of a kind ordinarily carried on for profit.

In *American Plywood Association v. United States*, 267 F. Supp. 830 (W.D. Wash. 1967), the court considered whether a trade association representing plywood manufacturers was described in section 501(c)(6). The association's purpose was to "promote the common business interest of the plywood industry and apprise the public of its scope and character," and the association engaged in quality control activities such as inspection and testing of plywood and promoted the acceptance of plywood and certain trademarks as symbols of quality plywood conforming to commercial standards. A United States Department of Commerce standard required that plywood manufacturers use independent agencies to certify conformance to government standards, and the association and two commercial laboratories offered such certification services. The United States contended that the association's quality control activities were: "1) a regular business of a kind ordinarily engaged in for profit; 2) [the] performance of particular services for individual members; and 3) the use of [the association's] income for the benefit of individual members." The court acknowledged that the association's quality control activities involved each of these three features but held that such features were merely incidental to the association's "main purpose to improve the industry by engaging in quality control activities, resulting in great benefit to the public." That plywood testing had recently been made available by commercial laboratories "[did] not demonstrate that continued performance of such services by [the association was] more than incidental to its main purpose." The court also stated that the association's quality control activities were "inherently and most immediately group

benefits in that quality control insures safe plywood, a prerequisite to its acceptance by the public" and that the "main purpose of [the association's] promotional activities [was] to further more varied and extensive use and acceptance of plywood as a building material."

In *Bluetooth SIG, Inc. v. United States*, 611 F.3d 617 (9th Cir. 2010), ***aff'g*** 101 A.F.T.R.2d 2008-748 (W.D. Wash. 2008), the Ninth Circuit Court of Appeals held that an organization formed for the "development and regulation of technical standards for the compatibility and interoperability of wireless products within a wireless personal network" was not described in section 501(c)(6) because, among other reasons, the organization's activities constituted the performance of particular services for members. The organization's operations fell into four categories: 1) developing, refining, and adapting Bluetooth specifications; 2) marketing and other promotional activities; 3) enforcing the Bluetooth trademark; and 4) operating a certification and listing program. Independent third parties approved by the organization tested manufacturers' products and after such products were certified, a manufacturer could use the Bluetooth trademark on the product by paying a listing fee. A certified product would be listed as Bluetooth-compliant on the organization's website. The court distinguished Rev. Rul. 70-187, noting that the ruling did not "address an 'industry' that was created and established by the members themselves." And the court agreed with the district court's finding that *American Plywood* was distinguishable as well. Specifically, the district court noted that "the product in *American Plywood* was something the members were already selling to begin with; the product here is something the members banded together to create. Thus, the collective enterprise of [the organization] derives from the fact that it has created a thing of value, which its members can then use to enhance the value of the products they sell." While the *American Plywood* association's "quality control and promotional activities did create a basis for choosing *between* plywood manufacturers, this was 'incidental' to the organization's main purpose, which was to broaden the use of plywood in the building materials market. In the present case, [the organization] creates, markets, and sells a thing of value." The Ninth Circuit Court of Appeals concluded that "the business interests of [the organization's] members are advanced at the expense of other industry members."

In *MIB, Inc. v. Commissioner*, 734 F.2d 71 (1st Cir. 1984), ***rev'g*** 80 T.C. 438 (1983), the First Circuit Court of Appeals considered whether an organization that provided a data bank and exchange for certain information concerning the health and insurability of people who apply for life insurance was described in section 501(c)(6). Membership in the organization was "basically" open to all life insurance companies incorporated in the United States or Canada and in the year at issue its members wrote 98 percent of the legal reserve life insurance in the United States. The organization's principal activity was the maintenance of a computerized system for gathering, storing, and distributing confidential underwriting information to members. The court observed that "courts have not gone so far as to hold that *no* benefit may accrue to members of a business league by virtue of their membership . . . The ultimate inquiry is whether the association's

activities advance the members' interests generally, by virtue of their membership in the industry, or whether they assist members in the pursuit of their individual businesses." The court determined that the organization's activities "by their nature" consisted of rendering particular services for member companies.

In *Louisiana Credit Union League v. United States*, 693 F.2d 525 (5th Cir. 1982), ***aff'g*** 501 F. Supp. 934 (E.D. La. 1980), the Fifth Circuit considered whether a section 501(c)(6) organization's conduct as a "middleman between member credit unions and commercial vendors of insurance, debt collection, and electronic data processing services" was substantially related to the organization's exempt purposes. The court stated that two factors in particular are critical to finding a substantial relationship between a section 501(c)(6) business league's activities and its exempt purposes: 1) the unique nature of the activities vis-à-vis the organizational function; and 2) the capacity in which benefits are received by the organization's members. Namely, a substantial causal relationship between a section 501(c)(6) business league's activity and its exempt purposes exists when: 1) the activity is unique to the business league's exempt purposes; and 2) direct benefits flowing from the activity inure to the business league's members in their capacities as members. "Thus, when a business league's uniquely relevant activities produce inherently group benefits that accrue to its members *qua* members, a substantial relationship exists within the meaning of section 513." The court held that the organization's activities "were not unique in character and that the benefits produced thereby were not inherently group benefits"; thus, such activities were not substantially related to the organization's exempt purposes.

In *Carolinas Farm & Power Equipment Dealers Association, Inc. v. United States*, 699 F.2d 167 (4th Cir. 1983), ***rev'g*** 541 F. Supp. 86 (E.D.N.C. 1982), the Fourth Circuit Court of Appeals held that a section 501(c)(6) trade association's group insurance program for its members was not substantially related to the association's exempt purposes because the services constituted the performance of particular services for such members. The association created an insurance trust fund to operate and fund the program and the trust acquired a master group insurance policy issued by a third party. Enrollment in the program was limited to association members and the association's activities included distributing information pamphlets prepared by the insurer to its members or prospective members, answering questions its members had about the program, forwarding its members' requests for changes in coverage to the insurer, and transmitting monthly premium notices to participating members. The court stated that the following factors provided "strong evidence that the program operates primarily to benefit individual members and not the industry as a whole": 1) fees charged to members for participation in the program were in direct proportion to the benefits received; 2) participation in the program was limited to members, and thus of no benefit to nonmembers; and 3) the services provided by the association were commonly provided by for-profit entities. Consequently, the court held that the association's activities constituted the performance of particular services for members and were not substantially related to the association's exempt purposes.

In *Evanston-North Shore Board of Realtors v. United States*, 320 F.2d 375 (Ct. Cl. 1963), the United States Court of Claims held that a multiple listing service operated by an organization comprised of licensed real estate brokers and agents constituted the performance of particular services for individual members. The organization created a multiple listing service, a means by which participating real estate dealers share listings each has obtained for the sale of realty, and participation in the service was mandatory for all members whose primary business was the sale of residential property. It charged a fixed monthly fee per member brokerage office, a fee for each property listed, and additional fees if the property was sold. The court determined the following factors "require the conclusion that [the organization's] multiple listing system operates most immediately to the benefit of the individual participating realtors": 1) fees charged for the listing service were in approximate proportion to the benefits received by each realtor; 2) participation in the multiple listing service was limited to members; 3) the industry regarded multiple listing services as "sales tools" and the National Association of Real Estate Boards, speaking on the organization's behalf, conceded that "[t]he so-called multiple listing services operated outside and independent of a real estate board, are in fact, nothing more than a cooperative sales department of a purely business operation"; and 4) like a stock or commodity exchange, the multiple listing service was a means of bringing buyers and sellers together to facilitate the sale of property. Additionally, the court held that the multiple listing service could not be regarded as an incidental activity of the organization.

ANALYSIS

Association's gross income from certifying facilities to the F Standards (the "F Standard Certifications") is not subject to the unrelated business income tax imposed by section 511 if such certification activities are substantially related to the exercise or performance by Association of its section 501(c)(6) exempt purposes. Evaluating whether Association's F Standard Certifications are substantially related to Association's exempt purposes requires an examination of the relationship between the F Standard Certifications and the accomplishment of Association's exempt purposes. *See* Treas. Reg. § 1.513-1(d)(1). To be substantially related to Association's section 501(c)(6) purposes, Association's F Standard Certifications should be directed to the improvement of business conditions in the D industry as distinguished from the performance of particular services for individual persons. *See* Treas. Reg. § 1.501(c)(6)-1. Additionally, the purpose of Association's F Standard Certifications cannot be to engage in a regular business of a kind ordinarily carried on for profit.

The court in *American Plywood* explained that a program like Association's F Standard Certifications provides "inherently and most immediately group benefits in that" the F Standard Certifications, like certifying facilities to the Association Standards, is a prerequisite to public acceptance of D industry products. *See American Plywood*, 267 F. Supp. at 835. F Standard Certifications demonstrate that certified facilities have

implemented quality management systems and environmental management systems that ensure products and processes are operationally safe and designed to prevent or mitigate environmental impacts. And like the organizations described in Rev. Rul. 70-187, Rev. Rul. 73-567, and *American Plywood*, the benefits of certifying facilities to the F Standards directly and primarily accrue to D industry participants regardless of whether such participants are Association members.

Like the organization in Rev. Rul. 70-187, Association is a membership organization comprised of manufacturers of a particular product and conducts a program of testing and certification to establish acceptable standards within an industry. And like that organization, Association makes its Certification Program—including F Standard Certifications—available to members and nonmembers alike. Association's F Standard Certifications do not replace or supplement ordinary testing and inspection procedures used by D industry participants. Association charges fees sufficient to defray actual program costs, such fees are set based on the budgetary needs of the Certification Program, and fees charged are not used to reduce member dues.

Association is also like the organization in Rev. Rul. 73-567 because both organizations certify applicants as having met certain standards and permit successful applicants to hold themselves out to the general public as certified. Both organizations make a listing of certified applicants available to the public. And by certifying that D industry equipment is manufactured and certified to Association Standards or their equivalents (such as F Standard 1 and F Standard 2), Association certifies that manufacturers' products conform to legal requirements or, by certifying D industry equipment to Association Standards or their equivalents, permits D industry participants to comply with legal requirements. *See* Rev. Rul. 81-127; Rev. Rul. 67-394.

Association's F Standard Certifications are unlike the activities described in *Bluetooth SIG* because the F Standard Certifications promote public adoption of and confidence in D industry products regardless of whether a given organization is an Association member. In *Bluetooth SIG*, the organization developed and marketed a trademarked "thing of value" only available to members. *See Bluetooth SIG*, 101 A.F.T.R.2d 2008-748. In doing so, the organization promoted "one of a number of possible technologies for the interest of its members as opposed to an industry writ large." *Bluetooth SIG*, 611 F.3d at 627. Thus, the Ninth Circuit Court of Appeals determined that the organization performed particular services for individual persons. Association is similarly unlike the organization in Rev. Rul. 70-80, in which only members were permitted to use the organization's trademark, even though nonmembers' products may have met the organization's quality standards, and the organization promoted the trademark in a way intended to give members a competitive advantage by extolling the superior quality of the trademarked products.

The F Standard Certifications are not "[a]n activity that serves as a convenience or economy to members in the operation of their businesses . . . ." *See* Rev. Rul. 68-265.

Rather, like the organization in Rev. Rul. 70-187, they are a "self-regulatory measure" intended to promote safety and enhance public trust in the D industry and thus are directed to the improvement of business conditions in the D industry. To the extent the F Standard Certifications "create a basis for choosing between" D industry participants, such benefit is incidental to Association's main purpose in conducting F Standard Certifications—promoting safety in the D industry. *See Bluetooth SIG*, 101 A.F.T.R.2d 2008-748. The primary purpose of the F Standard Certifications is not to "assist members in the pursuit of their individual businesses . . . ." *See MIB*, 734 F.2d at 78. And the F Standard Certifications are unlike the multiple listing service in *Evanston-North Shore Board of Realtors* as such certifications do not bring buyers and sellers together or otherwise directly facilitate commerce. Finally, unlike the organization in *Carolinas Farm & Power Equipment Dealers Association*, Association's fees are not in direct proportion to the benefits received, F Standard Certifications are not limited to members, and F Standard Certifications are not commonly provided by for-profit entities in the manner provided by Association.

"[T]he nature of the activity . . . determines whether [an activity] is a business ordinarily carried on for profit," and the F Standard Certifications are not a regular business of a kind ordinarily carried on for profit because, among other things, fees charged for certification to Association Standards or F Standards are set at amounts necessary to defray actual Certification Program costs and identical for members and nonmembers. *See* Rev. Rul. 81-174; Rev. Rul. 81-175. Additionally, an organization certified to Association Standard 1 or Association Standard 2 is automatically certified to F Standard 1 for no additional charge. For "dual" certification applicants, Association forgoes revenue by not charging additional fees for certifying to F Standard 1. And if an organization only desires certification to F Standard 1 or F Standard 2, Association does not require the organization to seek certification to Association Standards. Moreover, the F Standard Certifications are limited to Association verifying a facility's conformance with the applicable standards and Association does not engage in consulting activities to assist in the design or implementation of the F Standards.

The court in *Louisiana Credit Union League* stated that two factors in particular are critical to finding a substantial relationship between a section 501(c)(6) organization's activities and its exempt purposes: 1) the unique nature of the activities vis-à-vis the organizational function; and 2) the capacity in which benefits are received by the organization's members. A substantial causal relationship between Association's section 501(c)(6) purposes and the F Standard Certifications exists because: 1) the F Standard Certifications are unique to Association's exempt purposes; and 2) the direct benefits flowing from the F Standard Certifications inure to Association's members and nonmembers in their capacities as D industry participants. Specifically, Association's F Standard Certifications are directed to the improvement of business conditions in the D industry by promoting safety in the D industry. Additionally, benefits flowing from the F Standard Certifications are inherently group benefits because certifying that facilities meet widely adopted management system standards, like the Association Standards

and the F Standards, enhances the safety of and the public's confidence in the D industry as a whole.

Because the F Standard Certifications are directed to the improvement of business conditions in the D industry, do not constitute the performance of particular services for individual persons, and are not a regular business of a kind ordinarily carried on for profit, the F Standard Certifications contribute importantly to the accomplishment of Association's section 501(c)(6) purposes.

RULING

The income received by Association for certifying facilities to the F Standards in 2023 and subsequent taxable years is not subject to the unrelated business income tax imposed by section 511.

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The ruling contained in this letter is based upon information and representations submitted by or on behalf of Association and accompanied by penalties of perjury statements executed by an individual with authority to bind Association and upon the understanding that there will be no material changes in the facts. *See* Rev. Proc. 2023-1 § 7.01(16), 2023-1 I.R.B. 1. This office has not verified any of the material submitted in support of the request for this ruling, and such material is subject to verification on examination. The Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) will revoke or modify a letter ruling and apply the revocation retroactively if: 1) there has been a misstatement or omission of controlling facts; 2) the facts at the time of the transaction are materially different from the controlling facts on which the letter ruling was based; or 3) the transaction involves a continuing action or series of actions and the controlling facts change during the course of the transaction. *See* Rev. Proc. 2023-1 § 11.05, 2023-1 I.R.B. 1.

This letter does not address the applicability of any section of the Code or Treasury regulations other than those sections specifically described. Except as expressly provided herein, no opinion is expressed or implied concerning the federal tax consequences of any fact or issue discussed or referenced in this letter.

This letter is directed only to Association. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to Association's authorized representatives.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Randall Thomas
Senior Counsel
Exempt Organizations Branch 2
(Employee Benefits, Exempt Organizations, and Employment Taxes)

cc: