

Internal Revenue Service  
District Director

Department of the Treasury

Post Office Box 1680, GPO  
Brooklyn, NY 11202

Date: JUN 10 1991

Person to Contact:  
[REDACTED]

Contact Telephone Number:  
[REDACTED]

Refer Reply to:  
[REDACTED]

CERTIFIED MAIL

Dear Applicant:

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

The evidence presented disclosed that you were incorporated on [REDACTED] in the [REDACTED].

The purposes for which the organization was formed are to promote the common business interests of those engaged in the cable television industry in the [REDACTED] area by demonstrating the educational, informational, and entertainment value and general usefulness of cable television by providing accurate and reliable information to interested members of the general public concerning the availability in newspapers, television, radio and pamphlets, and by other lawful and proper means.

The information submitted with your application states that your primary activity is to enable individual cable companies to use and benefit from the use of major advertising media for the purpose of promoting cable television.

In response to our letter dated [REDACTED], you have stated that your organization (hereinafter referred to as the "Co-op") provides individual cable companies the opportunity to advertise in major media including television, TV Guide and newspapers.

The Co-op conducts two types of advertising. One type of advertising is primarily for the purpose of getting nonsubscribers to subscribe to cable and to get current subscribers to subscribe to networks that require a fee beyond the basis cable subscription fee. The other type of advertising is called tune-in advertising and its primary objective is to get people to view a particular program or cable network.

In response to our request for copies of your print advertisements, the Co-op submitted a copy of an ad that appeared in the [REDACTED] on [REDACTED]. The advertisement, which the Co-op prepared on behalf of a program supplier ([REDACTED]) describes the benefits offered by [REDACTED] to potential subscribers. The ad also includes a telephone number, [REDACTED], in large, bold print and asks readers who may wish to subscribe to call that telephone number or their local operator.

The Co-op also submitted a video cassette tape and an audio cassette tape, two additional devices utilized in the general advertising campaign that you created for the benefit of your members and your members' program suppliers. Each tape consists of several advertising segments that promote cable channels such as HBO, Showtime, Family Channel, Discovery Channel and FNN.

The executive director of the Co-op, [REDACTED], is an independent marketing consultant whose own firm, [REDACTED], handles the media planning and buying for the Co-op pursuant to a contract.

Your organization has stated in supporting documentation to Form 1024 that as part of his responsibilities "[REDACTED] works with the basic program suppliers to ensure scheduling of their funds in periods of the year and, in media which are in concert with meeting the program suppliers' marketing objectives."

You also state that the premium suppliers (those companies that contribute more money to the co-op than other program suppliers) "are always apprised of the media buy and the net result of the media buy both in terms of ratings delivered and in the number of subscribers obtained to their networks and to basic cable overall."

[REDACTED] also coordinates the advertising creative work which is performed by [REDACTED], a company devoted to doing creative work for the cable television industry.

Membership in the Co-op is restricted to companies that are recognized as cable television operators, systems, or groups of systems. Additional requirements for membership qualification include payment of a fee based on the number of homes serviced by the cable company, shared expense of any cooperative promotional mailing and payment of all bills on a timely basis.

The present and future sources of funding will be from the Co-op's cable systems and program suppliers.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having some common business interest, the purpose of which is to promote such common interest. Its activities should be directed towards the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons.

An IRC 501(c)(6) organization's primary activity cannot be performing particular services for members.

Rev. Rul. 56-84, 1956-1 C.B. 201 holds that an organization, operated primarily for the purpose of promoting, selling and handling the national advertising in its members' publications, is engaged in the performance of particular services for individual members as distinguished from activities for the improvement of the business conditions of its members as a whole and, therefore, is not entitled to exemption from Federal income tax as a business league.

In Rev. Rul. 65-14, 1965-1 C.B. 236 an organization formed to promote the tourist industry in its area, whose principal activity is publishing a tourist guidebook and other advertising matter containing listings of the names of individual members, is performing particular services for its members and is accordingly not exempt under IRC 501(c)(6).

In Rev. Rul. 67-77, 1967-1 C.B. 138, an organization composed of dealers in a certain make of automobile in a designated area is organized and operated for the primary purpose of financing general advertising campaigns to promote, with funds contributed by the dealer members, the sale of that make of automobile. Held, the organization is performing particular services for its members instead of the automotive industry as a whole and is not entitled to exemption as a business league under IRC 501(c)(6).

Revenue Ruling 55-444, 1955-2 C.B. 228 concerns an organization formed to promote the business of a particular industry and which carries out its purposes primarily by conducting a general advertising campaign to encourage the use of products and services of the industry as a whole. The advertisements stressed the economical and desirable features of the product. None of the advertising, with the exception of one newspaper advertisement and a listing in the classified telephone directory, contained the names of individual members.

Like the organizations described in Revenue Rulings 56-84, 65-14 and 67-77 cited above, your organization is primarily engaged in the performance of particular services for your members. The principal purpose of your organization is to provide a direct business service for your members' economic benefit.

Unlike the organization described in Revenue Ruling 55-444, your organization is engaged in the business of conducting advertising campaigns to increase viewer subscriptions and services for the individual members rather than the industry as a whole. The performance of particular services for the individual members as distinguished from activities for the improvement of the business conditions of its membership as a whole does not entitle your organization to exemption from Federal income tax.

The advertising services you provide are business services the kind ordinarily carried out for profit. Income Tax Regulations Section 1.501(c)(6)-1 holds that the performance of business services of the kind ordinarily carried on for profit will preclude exemption under Section 501(c)(6) even if it is conducted on a cooperative basis.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(6) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,



District Director