

Rev. Rul. 68-264, 1968-1 C.B. 264

A nonprofit organization is not exempt from Federal income tax under section 501(c)(6) of the Internal Revenue Code of 1954 if it operates a traffic bureau for members and nonmembers as its primary activity.

S.M. 2368, C.B. III-2, 225 (1924), superseded.

The purpose of this Revenue Ruling is to update and restate under the current statute and regulations the position set forth in S.M. 2368, C.B. III-2, 225 (1924). This ruling relates to whether an organization that operates a traffic bureau of the type described below is exempt from Federal income tax under section 501(c)(6) of the Internal Revenue Code of 1954.

A nonprofit organization whose members are engaged in a particular line of business was incorporated to operate as its primary activity a traffic bureau for members and nonmembers as a service in the shipment of their goods and products. The services it provides to members and nonmembers include quotations of freight rates, rules, and practices; investigations of loss, damage, and overcharge claims, handling of rate cases for individual members before regulatory bodies; investigation of complaints on transportation services; and furnishing of information on transportation laws. The organization's income consists of membership fees, an annual payment by the local chamber of commerce, and payments by business firms for services performed. The income approximates the cost of operations.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues, chambers of commerce, real estate boards, or boards of trade, 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 Income Tax 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. 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 a 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.

Primary activities that constitute a regular business of a kind ordinarily carried on for profit will preclude exemption from Federal income tax under section 501(c)(6) of the Code because they evidence a purpose to engage in such business. *Jockey Club v. United States*, 137 F.Supp. 419, certiorari denied, 352 U.S. 834

(1956). A traffic bureau, of the type described above, is a business of a kind ordinarily carried on for profit. Since the traffic bureau is the primary activity of this organization, it is not exempt from Federal income tax under section 501(c)(6) of the Code.

Furthermore, activities that constitute the performance of particular services for individual persons may preclude exemption from Federal income tax under section 501(c)(6) of the Code. See *Indiana Retail Hardware Association, Inc. v. United States*, 366 F.2d 990 (1966). An activity that serves as a convenience or economy to members in the operation of their businesses is a particular service of the type proscribed. See *Produce Exchange Clearing Association, Inc. v. Helvering*, 71 F.2d 142 (1934). The operation of a traffic bureau for members and nonmembers is a clear convenience and economy to them in their businesses, resulting in savings and simplified operations. Accordingly, this activity constitutes the performance of particular services for individual persons. *United States v. Oklahoma City Retailer Association*, 331 F.2d 328 (1964). Therefore, for this further reason, the organization is not exempt from Federal income tax under section 501(c)(6) of the Code.

See Rev. Rul. 68-265, below, which sets forth similar principles relative to credit information service.

S.M. 2368 is hereby superseded since the position set forth therein is restated under current law in this Revenue Ruling.