

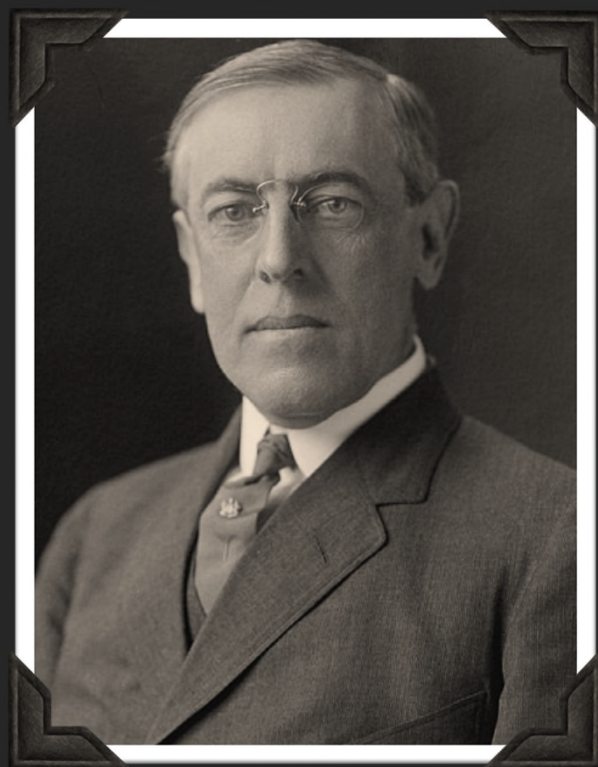
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Business Leagues and Trade Associations

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Section 501(c)(6):
Trade and Professional Organizations,
etc.

- An association of persons having some common *business* interest
- Not organized for profit
- Purpose to promote the common business interest
- Does not engage (other than incidentally) in business ordinarily conducted for profit
- Activities directed toward improvement of one or more lines of business
- Professional organizations, business leagues, chambers of commerce, real estate boards, boards of trade, and professional sports leagues



Purpose/Activities

- **Purpose:** promote the common *business* interest of its members and not to engage in a regular business of a kind normally carried on for profit
- **Activities:** must be directed to the improvement of one or more *lines of business*, as distinguished from the performance of *particular services for individual persons*

MEANING OF *BUSINESS*

- Broadly construed—includes nearly any activity carried on for the production of income
- Organizations that promote the common interests of hobbyists do not qualify as business leagues



Meeting



Hobbyists



Line-of-business Requirement

- IRS definition: “trade or occupation, entry into which is not restricted by patent, trademark, or similar device which would allow private parties to restrict the right to engage in business”
 - Short-hand form: Entire industry must be represented (*See National Muffler*)
 - Alternative: All components of an industry within a geographic area



No Particular Services to Individual Persons

- Industry-wide benefit vs. particular services to members
 - An industry-wide benefit has certain traits:
 - Activity for which individual members could not be expected to bear the expense lending itself to cooperative effort
 - Benefits are intangible and only indirectly related to the individual business

Professional Associations

- Examples: bar associations, medical societies, etc.
- IRS uses primary purpose test to determine (c)(3) or (c)(6) as many perform charitable and educational activities
 - Most often qualify as (c)(6) because primary purpose is promotion of a particular profession
 - Compare to organization where dominant activities are noncommercial research to benefit community



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Activities Promoting a Common Business Interest

Publications
pertinent to
members'
business interests

Public relations to
enhance
role/reputation of
industry/profession

Programs of
testing/certification
for
industry/profession

Conventions
and
educational
seminars

Seek to develop
fellowship/
goodwill among
members

Promotion of
improved business
standards/methods

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Lobbying

Lobbying

- May engage if germane
 - Influence legislation (not local)
 - Lobbying communication
 - Grassroots lobbying
 - Seeking to influence certain federal executive branch officials on official actions
- See § 162 for factors as to whether activities = lobbying communication

Political Activities

- Not considered germane
 - No primary purpose
 - Typically create a separate segregated fund (§ 527)
 - Caution: Don't forget campaign finance laws and regulations

Lobbying & Political Activities: Tax Issues

Membership Dues

- Members cannot deduct dues attributed to lobbying and political activities
- (c)(6) may choose:
 - Provide annual disclosure to members as to non-deductible portion; or
 - Pay 21% (currently) proxy tax on all lobbying and political activity expenditures

Tax Treatment on Political Expenditures

- If § 527 used, not taxed on political expenditures
- If § 527 not used, taxed on lesser of net income or all political expenditures

Antitrust Concerns

- Restraint of trade (Sherman Act)
- Unfair competition (FTC Act)
 - DOJ/FTC Enforcement
- Per se illegal: price fixing agreements, market allocation agreements, production limitation agreements
- Rule of Reason: industry market research, information exchanges, code of ethics, customer non-solicitation
- Develop antitrust compliance program/engage antitrust counsel



Prison