CALIFORNIA CONTINUING EDUCATION, INC

PRESENTS

DUES MONKEY 501(c)3 RELIEF!

CAN YOUR CHAMBER KICK THE HABIT?

by

Curtis L. Harrington

HARRINGTON & HARRINGTON

PATENTAX®

P.O. Box 91719, Long Beach, CA 90809-1719

(562) 594-9784, Fax: (562) 594-4414

http:/www.patentax.com E-mail: curt@patentax.com PATENTAX®

Premise: Chambers of Commerce have been effective in "Collecting Dues." All other activities have been secondary priority. IRS has provided a huge incentive in causing business leagues to be more efficient -- it has moved to eliminate the deductibility of their member dues. Perhaps could not have come at a better time.

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I. Background of 501(c)6

I first wrote about chambers in December of 2015, an article on Linkedin entitled " CHAMBERS OF COMMERCE SHOULD RE-EVALUATE THEIR PURPOSE, IMMEDIATELY." I wrote that chambers should be more like 501(c)3s, should quit discriminating, and should cease inhibiting business.

The typical "chamber of commerce" economic cycle may include an annual dues requirement. In most cases the dues paid do not result in a any immediate direct benefit outside of having a name in a listing. Meetings, functions and luncheons are typically items of extra charge. Even mixers typically carry an invidious charge which contributes to the hegemonic inefficiency of a typical chamber. The purpose of a chamber is supposed to be the promotion of business. Since a 501(c)(6) chamber is a corporate creation of the state and legitimized via federal exempt status, it should serve with a loyalty foremost to United States business. However, chamber policy can inhibit expectations of business growth even if only by taking no action after getting the member dues.

(a) Members v. Non-Members
This categorization is used as a blunt instrument to actually limit opportunities of businesses by providing a surcharge barrier to potential customers. However, the 501(c)(6) chamber of commerce organizations are **expected** to have at least some public benefit relating to business outside of simply benefitting their members. § 1.501(c)(6)-1 (Business leagues, chambers of commerce, real estate boards, and boards of trade) speaks in terms of services to "persons," which refers not only to members, but also to individuals and entities who are not members.

As an example, Rev. Rul. 73-411 **denied** 501(c)(6) status to a shopping center merchants' association because its activities were "directed to promoting the general business interests of its members." Unfortunately, the IRS does not have a significant non-discrimination policy, it only requires that those against which you discriminate should at least be able to peer over the fence.

Current law permits some discrimination against non-members, so long as it can be said that non-members have at least some chance to obtain some benefit, even if the non-member outsider is economically punished with discriminatory punitive charges.

A member, having paid the membership dues may get a listing on the chamber web site (and may have to pay extra for it). The ability to state that one is a "chamber member," and the privilege of writing a check to the chamber is largely perfunctorily the only benefit of chamber membership.

However, the new chamber member has a chance to attend events at further cost, in which outsiders are discriminatorily charged an inhibitory premium for attending. In essence, the chamber "punishes" and "deters" potential customers by discriminating against them in attending functions. When the outsiders are willing to suffer the cost discrimination, those same outsiders are set-upon to join and become dues paying members. If they do, then there will be other outsiders discriminated against and economically inhibited from chamber opportunities to meet with the new member.

We live in an age undreamt of over the last 30 years in which significant marketing is performed by room-filling invitations to a fine meal with a presentation of a good or service offered by the host. Some mixer and tip clubs have arisen that operate under similar economic assumptions by having a "dues"/ "cost" configuration designed to insure that outsiders can attend at no cost. The cost is borne by those already members. The members are certainly looking for new clients, and to expand their businesses.

As a practical matter, chambers of commerce, if they spend any time trying to arrange more business for their members, are generally intent upon trying to encourage increases in business only among their existing members (or those that show a willingness to become members). A real chamber of commerce should encourage connections and enhanced business between entities even if those entities are not members. The most successful chambers of commerce could become a hugely important hub for business, if they wanted. The focus upon dues likely blots their vision & effectiveness.

(b) Get the Dues Money -- Always The Most Important Membership Thing

Many chambers of commerce have a commission arrangement with their associates. Some pay 50% of the first year's dues to the commission sales associate. Business acquisition is not necessarily a product that can be sold out of inventory. The use of a commission reveals how important sales of new and existing memberships are, and by comparison how unimportant the facilitation of expanded business is. Chamber staff heads look at membership size with a view to using that metric to drive the chamber staff head's salary. I do not know of one local chamber of commerce that takes account of a metric of the organizational involvement which directly results in the increase of business in the United States, whether related to chamber membership or not.

(c) The "Old Geographical Isolation" Model

In the past, in semi-rural America, a Chamber was formed in a city, with the city location being far from other cities. In essence, the lion's share of business was to be found exclusively within the city, and if a business didn't join, it was missing out on securing and holding 95% of its market. There was no expectation that it was even realistic for a chamber to secure business outside of its city. The Internet has made the old formula obsolete. Other factors contributing to the obsolescence of the "Old Geographical Isolation" Model include the urban small city pile up, with many smaller cities now located a few minutes drive away.

Yet, the chambers that were formed in cities, no matter how small or how close, will by golly remain as city chambers. In some cases a city's chamber will be most moribund, but it will not merge. It will not die. It will continue on in a life support manner.

II. The New Tax Law: Tax Cuts & Jobs Act (TCJA):

The new law doesn't yet have the benefit of complex regulations, but if it means what it says, then "raw dues" in "any club organized for business" will not be allowed. My guess is that each ordinary and reasonable expenditure will have to be independently justified. For example, if a chamber of commerce offered tax and accounting CPE that was utilizable toward a CPA's annual continuing education requirement, the costs to attend would probably be deductible. At the other end of the spectrum a charge for a specific table top mixer may possibly be deductible as a reasonable and necessary marketing expense. I leave it to the reader to obtain a copy of the new law.

Further, the lack of deductibility for meals would indicate that any expenditure that, on its face, was a "dinner" or "meal" CENTERED activity would also be under attack. So, a "chamber of commerce annual dinner" would probably not be deductible. What this means is that chambers of commerce, and every other business organization needs to think in two terms: (A) get lean, and (B) justify the event.

Again, without the benefit of specific regulations guidance it can be seen that:

(1) Charges for a business table top "talk to potential customers" event has a greater probability of being deducted than a "member sit down dinner".

(2) Charges for education REQUIRED for a professional license event has a greater probability of being deducted than a city debate on re-zoning.

(3) Charges for an event that reflects a definite business "reasonable and ordinary expense," regardless of whether or not food is provided, will have a greater probability of being deducted than an event that seems to indicate personal self service physiological and social needs, like "ingesting food", or "having a celebbratory meeting"

I have a list of words I've never liked and that list has become more important to avoid after the new tax than ever before. Here is a sampling:

Dinner	Gala	Silent Auction	Golf	Benefits
Fund Raiser	Formal	Member	Chic	Entertainment
Sponsor	Ticket	Donation	Partnership	Join
Member Meeting	Lunch	Charity	Environmental	Dues
Non-Member	Members	Reception	Excellence	Party
Annual Dues	Membership	Celebrate	Honoring	Award
Lifetime	Birthday	Host	Celebrity	Drive

III. 501(c)(3) is the Optimum Model

As of the time of my first article in 2015, there were a handful of business promotion and networking entities found on the guidestar.org charity database that are 501(c)(3) charities. Most do not use the word "chamber" but instead use descriptors such as: "entrepreneurship," "green," " enterprise," "technology," "small business," "export," & "networking." I have formed a belief that the fewer number of this type of charity "business promotion" organizations are identifiable because (1) many are so small and informal that state and/or federal registration as a charity has not been sought, (2) some charities perform the "business promotion & networking" but are not otherwise identifiable as such, and (3) the current 501(c)(6) chamber "fortress" approach is entrenched and resists extinction.

Given the new IRS tightening on deductions, the 501(c)(3) is an even more attractive Model:

(1) 501(c)(3)s typically have no owners and many have no members. Real 501(c)(3)s are typically focused upon a core service and has a natural motivation to push the core service to the maximum. The core service for a 501(c)(3) business enhancement organization would be to stimulate U.S. and Local business economy.

(2) Without the harmful focus on "dues generation" and "chamber president" salary inflation, a 501(c)(3) business organization would be more free to compete in the marketplace. By charging everyone the same amount for its "reasonable and necessary" business enhancement programs, the services that work would be embraced and expanded, while any traditional "useless events" for which the IRS would like to deny deduction.

(3) Chambers of Commerce have never tried to quantify the business expansion effectiveness their activities, especially in stimulating business with non-members. A new 501(c)(3) business stimulation entity would compete in the marketplace to compete as to the quality and effectiveness of their "reasonable and necessary" services.

(4) Business expansion is based upon knowledge, know-how & education. There is already a rich history of 501(c)(3) educational charities providing educational services efficiently. 501(c)(3) educational nonprofits have a tradition of competition based upon the quality and content resulting in an expansive, market based, driven view.

(5) Educational non-profits have a core public charitable purpose that is directly related to their activities. Chambers of commerce are typically 501(c)(6) membership organizations that are focused primarily upon increasing local membership in order to increase dues revenue & staff salaries. Local Chambers of commerce are supposed to maximize benefit to business, but are inhibited by (a) the local only membership component, (b) natural discrimination against non-members, and (c) a negative motivation for participation fear of losing local business by NOT being a member. In some cases its viewed similarly to a business license--a necessary evil.

(6) The combination of the new tax law and the 501(c)(3) tradition of excellence and education may help local businesses finally begin to free themselves from the local business association "dues monkey" that has lived on their collective backs for more than half a century. New business association entities should be based upon helping the nation to expand its business & form around business segments connections with target customers.

IV. Checklist that may or may not help..05

(1) Invoices to attendees & facilities should be detailed emphasizing reasonable & necessary purposes.

(2) Food at events should be omitted, minimized, and should not be a feature of the enticements in (1).

(3) Avoid using any of the bad words in the above table which are indicative of a strict business benefit.

(4) Place non-deductibility warning on statements lacking details of reasonable & necessary justification.

(5) Eliminate references to, & use of dues & member status payments & include warnings of (4) regardless.

Curtis L. Harrington

Contact: **HARRINGTON & HARRINGTON - PATENTAX®**
P.O. Box No. 91719, Long Beach, CA 90809-1719 patentax.com
Tel. (562) 594-9784; Fax (562) 594-4414 curt@patentax.com

Specialty: High Technology Patent / Trademark / Intellectual Property Law & Taxation

Education: **B.S.** Chemistry - Auburn University (1974)
M.S. Electrical Engineering - California State University Long Beach (1990)
M.S. Chemical Engineering - Georgia Institute of Technology (1977)
J.D. - University of Houston School of Law (1983)
M.B.A. - University of Oklahoma (1985)
LL.M. *Taxation* - University of San Diego School of Law (1997)

Admitted to Practice: Supreme Courts of California, Arizona, Texas, & Nevada
U.S. Supreme Court; U.S. District Court, Central District of California
Internal Revenue Service U.S. Patent and Trademark Office
U.S. Court of Appeals for the Federal, Fifth & Ninth Circuits
California Dept. of Real Estate - Broker; Los Angeles County California EMT-Basic
U.S. Tax Court FCC-Commercial & Amateur Extra
Certified by The State Bar of California Board of Legal Specialization: Taxation

Languages Japanese Language Proficiency Examination, (Japan Foundation), Level 4; Kanji Proficiency Exam (Kanji Aptitude Testing Foundation) Level 7, recognized by Japan Ministry of Education, mastery of 640 kanji; some technical Russian reading ability.

Patents Issued Prepared and prosecuted more than 400 patents, in the electrical, chemical & mechanical technologies ; specialty areas: optics, fiber optics, cryogenics electromagnetics, & computers.

Litigation Associate counsel in patent & trade secret litigation; Municipal Court Judge pro tem & Superior Court Mediation program Attorney-Client fee Dispute Arbitrator, Long Beach Bar Association; Patent Panel, American Arbitration Association.

Teaching Adjunct Law Professor, Golden Gate University School of Law, LL.M. Taxation Program; Georgia Institute of Technology - previously taught heat and mass transfer laboratories, and analog and digital computer laboratory.

Member: **Current Member**: State bars of California (Business, Tax, & Criminal Sections), Texas, Arizona & Nevada; Central District Consumer Bankruptcy Attorneys Association (2011-2017); & Fellow, National Tax Practice Institute. **Past Member**: Member (2006-2011) & Chair (2010-11) of the Taxation Advisory Committee of the California State Bar Board of Legal Specialization; Member (2011-2016) & Chair (2014-15) of the California State Bar Board of Legal Specialization; Southern California Bankruptcy Inn of Court (2011-2012); Long Beach Bar Association. (Board. of Governors, 1994-95); Orange County Bar Association, (Co-Chair Technology Law Section 1996); National & CA Society of Enrolled Agents (Orange Co. Chapter President 2003-2004); Registered Parliamentarian - National Association of Parliamentarians; Business Management Committee of SEMA member (1997-98); CA Bar: CEB committee of (1999-2000); Taxation Section Executive Committee (2002-2005); Income & Other Tax subcommittee (Chair 2000-2002); Special Master, California State Bar Association for Search Warrants under Penal Code §1524 (2001-2002).