

Internal Revenue Service

Department of the Treasury

District
Director

1100 Commerce St., Dallas, Texas 75242

Date: OCT 06 1994

Employer Identification Number
[REDACTED]

Person to Contact:
[REDACTED]

Telephone Number:
[REDACTED]

Refer Reply To:
[REDACTED]

Dear Sir or Madam:

We have completed our consideration of your application for exemption under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(9).

You were formed by a trust agreement entered into on [REDACTED] between [REDACTED] and [REDACTED] (Trustee). According to the trust agreement, [REDACTED] has adopted the [REDACTED] (Plan) the purpose of which is to provide medical and other benefits for those employees of [REDACTED] and their eligible dependents who are covered by the Plan after meeting the service and other requirements described in the Plan.

The Plan document states that the Plan applies to any accidental on-the-job injury sustained in the course and scope of employment and in the furtherance of the business of [REDACTED] by any employee of [REDACTED] in the State of [REDACTED]. The Plan further states that the benefits of the Plan are the only benefits for which an employee is eligible in the event of injury. The Plan provides for the payment of medical expenses in connection with the injury and pays wage replacement benefits of [REDACTED]% of the employee's regular wages while incapacitated.

You have also purchased employers liability insurance coverage of \$[REDACTED] per accident in the event of a major claim against [REDACTED], most likely as the result of a lawsuit. The policy covers those damages which [REDACTED] are legally required to pay as damages because of bodily injury to an employee. There is a \$[REDACTED] deductible, which is self-funded. This is a regular liability policy to protect [REDACTED], the employer, in the event they are legally required to pay damages as the result of claims arising out of work-related bodily injuries to their employees.

In addition, though not specified in the Plan, you provide all eligible employees with life, accidental death and dismemberment coverage which pays regardless of whether the incident was work-related. Such benefits are purchased through insurance policies.

[REDACTED]

In your application for recognition of tax-exemption, you state that the Plan was established to replace benefits that would be provided to employees under the [REDACTED] Worker's Compensation Act. You further state in your application that the sole purpose of the trust is to accumulate and hold funds to be used to satisfy employers' liabilities with respect to employee occupational injury benefits pursuant to the Plan.

All your financial support comes from employer contribution and any income derived therefrom. For the period [REDACTED] through [REDACTED], your major expenditures were as follows: claims administrator \$[REDACTED]; liability insurance premium \$[REDACTED]; life, AD&D coverage premiums \$[REDACTED]; long term disability coverage premiums \$[REDACTED]; short term disability wage replacement \$[REDACTED]; and injury medical claims of \$[REDACTED]. For [REDACTED], you major expenses are projected as follows: claims administrator \$[REDACTED]; liability insurance premium \$[REDACTED]; life, AD&D premiums \$[REDACTED]; long term disability premium \$[REDACTED]; short term disability premium \$[REDACTED]; and injury medical claims of \$[REDACTED].

Section 501(c)(9) of the Code exempts from federal income tax voluntary employees beneficiary associations providing for the payment of life, sick, accident, or other benefits to their members if no part of the net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(9)-3(d) of the regulations provides that the term "other benefits" includes only benefits that are similar to life, sick, or accident benefits. A benefit is similar to a life, sick or accident benefit if (1) it is intended to safeguard or improve the health of a member or a member's dependents, or (2) it protects against a contingency that interrupts or impairs a member's earning power.

The employers' liability coverage you provide is primarily for the benefit of [REDACTED]. It protects them in the event they are held liable for damages as a result of a work-related injury to an employee. It is not a member benefit, but is designed to provide financial protection for the employer should they become liable for damages. It is not a life, sick, accident or other benefit within the meaning of section 501(c)(9) of the Code because it is not intended to safeguard or improve the health of a member or a member's dependents nor is it intended to protect against a contingency that interrupts or impairs a member's earning power.

Accordingly, because we have determined that you are providing a substantial benefit of a type which is not one of the permissible benefits described in section 501(c)(9) of the Code and the regulations thereunder, tax-exempt status under section 501(c)(9) is denied. You should file federal income tax returns.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument

[REDACTED]

that clearly sets forth your position. If you desire an oral discussion of issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you have any questions, you may contact the person whose name, address and phone number appear at the top of this letter.

Sincerely,

[REDACTED]

District Director

Enclosures:

Publication 892

Form 6018