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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

200028039

Date: APR 17 2000

Contact Person:

ID Number:

Telephone Number:

OP:E:EO:T2

LEGEND A =
B =

Employer Identification Number:

Dear Sir or Madam:

This is in reply to the letter dated October 13, 1999, regarding whether the assets of a black lung trust and an escrow account established by A may be used to satisfy your black lung liabilities and those of your subsidiary corporations and to provide accident and health benefits to retired miners who used to work for you and their spouses and dependents.

You are the parent of a group of coal mining companies. You recently merged with B, another group of coal mining companies. As a part of this merger you assumed sponsorship of the existing medical, life, and other welfare benefits plans of B and its subsidiaries including the black lung trust sponsored by A. Hereinafter these companies shall collectively be referred to as the Group. The expected unfunded present value of A's liability for black lung benefits is currently zero. Therefore, you intend to amend A's trusts governing document to permit the payment of the black lung liabilities of all the employees in the Group. You further intend to amend the Trust to permit any excess trust assets to be used to provide accident and health benefits to miners who retired from a member of the Group and their spouses and dependents. In addition, funds shall be used to pay all related administrative and other incidental expenses, or to purchase insurance to provide such benefits. The excess amount referred to above, will be the funds, or a portion thereof, which exceed 110 percent of the present value of the remaining liability for black lung benefits of A.

Prior to the merger, A had established a trust to satisfy the insurance requirements of the Federal Black Lung Benefits Act and certain state laws providing similar benefits. The Trust was established in accordance with the provisions of section 501(c)(21) of the Internal Revenue Code, and contributions to fund the black lung benefits and certain administrative and incidental expenses as defined in section I.501(c)(21)-I(e) of the Income Tax Regulations were funded and deducted in accordance with section 192 of the Code. The Trust was recognized as exempt under section 501(c)(21) of the Code. An independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(I)(A)) each of which is reasonable and which are reasonable in the aggregate, has certified that the present value of A's remaining liabilities for black lung benefits is substantially less than the assets being held in trust.

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You have requested the following rulings:

1. That the payment by the Trusts to satisfy the liabilities of Group members other than A with respect to claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts will not affect the tax-exempt status of the Trust under section 501(c)(21), and will not be considered self-dealing within the meaning of section 4951 or taxable expenditures within the meaning of section 4952, and

2. To the extent that payments do not exceed the limit of section 501(c)(21), payments from the Trusts to pay accident and health benefits to retired miners of all Group members and their spouses and dependents (including related administrative and other incidental expenses), or to purchase insurance covering such benefits, will constitute a proper use of the Trusts' assets as payments for "accident or health benefits" within the meaning of section 501(c)(21)(A)(I)(IV), and will not adversely affect the tax-exempt status of the Trust under section 501(c)(21), and will not be considered self-dealing within the meaning of Section 4951 or taxable expenditures under section 4952.

Section 501(c)(21) of the Code exempts from federal income tax trusts created or organized in the United States exclusively to: (a) satisfy, in whole or in part coal mine operators' liabilities for disability or death due to pneumoconiosis under Black Lung Acts; (b) to pay premiums for insurance exclusively covering liability; and (c) to pay administrative and other incidental expenses of such trust (including legal, accounting, actuarial, and trustee expenses) incurred in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts.

Section 501(c)(21)(B) of the Code provides, in part, that no part of the assets of the trust may be used for or diverted to, any purpose other than, the purposes described in section 501(c)(21)(A).

Section 4951 of the Code imposes a tax on each act of self-dealing between a disqualified person and a trust described in section 501(c)(21).

Section 4951(d)(1)(E) of the Code states that for purposes of section 4951, the term "self-dealing" means any direct or indirect transfer to, or use by or for the benefit of, a disqualified person of the income or assets of such a trust.

Section 4951(e)(4) of the Code defines the term "disqualified person" as including a corporation of which substantial contributors, foundation managers, or owners of more than a set interest in a corporation, partnership or trust, own more than 35 percent of the total combined voting power of the corporation.

Section 4951(f) provides that a payment out of assets or income of a trust described in section 501(c)(21) for purposes described in subclause (I) or (IV) of section 5501(c)(21)(A)(I) shall not be considered an act of self-dealing.

Section 4952(a) of the Code imposes a tax on each taxable expenditure.

Section 4952(d) provides that for purposes of this section, the term "taxable expenditure" means any amount paid or incurred by a trust described in section 501(c)(21) other than for a purpose specified in such section.

Section 4953(a) imposes a tax on the excess contributions made by a person to or under a trust or trusts described in section 501(c)(21).

Section 4953(b) of the Code provides, in part, that the term "excess contribution" means the amount by which the amount contributed for a taxable year to a section 501(c)(21) trust exceeds the allowable deduction for that year under section 192.

Section 192(c)(1)(A) of the Code provides that the deduction for contributions to a section 501(c)(21) trust shall be determined by using reasonable actuarial methods and assumptions.

The Income Tax Regulations for both section 4951 and 4952 of the Code state, in part, that the regulations and rulings under the corresponding provisions of sections 4941 (self-dealing), 4945 (taxable-expenditures) and 4946 (definitions and special rules) shall apply to sections 4951 and 4952 where appropriate.

As the parent of the various contributing companies in the Group you are a disqualified person within the meaning of section 4951(e)(4)(C). The members of the Group, including A, as a contributor to the black lung trust, are also disqualified persons.

The submitted information establishes that the monies held in trust for the employees of A and other members of the Group shall continue to be used to pay benefits in a manner consistent with the provisions of section 501(c)(21) of the Code. As represented the funds held in A's trust shall be used to continue to pay black lung benefits to all miners in the Group. All excess funds, the amount of which you have represented as having been determined by an independent actuary using reasonable methods and which will be limited to ensure that 110% of the estimated amount needed to pay A's black lung liabilities, shall be used to pay accident and health benefits to retired miners and their spouses and dependents.

Accordingly, based on the representations made, we rule as follows:

1. Under these circumstances the payment by the Trusts to satisfy the liabilities of Group members other than A with respect to claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts will not affect the tax-exempt status of the Trust under section 501(c)(21), and will not be considered self-dealing within the meaning of section 4951 or taxable expenditures within the meaning of section 4952, and

2. To the extent that payments do not exceed the limit of section 501(c)(21), payments from the Trusts to pay accident and health benefits to retired miners of all Group members and their spouses and dependents (including related administrative and other incidental expenses), or to purchase insurance covering such benefits, will constitute a proper use of the Trusts' assets as payments for "accident or health benefits" within the meaning of section 501(c)(21)(A)(I)(IV), and

will not adversely affect the tax-exempt status of the Trust under section 501(c)(21), and will not be considered self-dealing within the meaning of Section 4951 or taxable expenditures under section 4952.

This ruling is based on the representations you have made concerning reasonable of the actuarial presumptions upon which distributions will be based.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Because this letter could help resolve any question about your exempt status, you should keep it in your permanent records.

If you have any question about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter. For other matters, including questions concerning reporting requirements, please contact your key District Director.

Sincerely,

(signed) Garland A. Carter

Garland A. Carter
Manager, Exempt Organizations
Technical Branch 2

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