



TAYOU EYOUEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

Number: **200451032**

Release Date: 12/17/04

SIN – 501.09-01

SE:T:EO:RA:T:3

Date: August 31, 2004

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Legend:

A =

B =

C =

D =

E =

F =

G =

H =

R =

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(9). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

You were formed as a limited liability company in the State of R. Your amended and restated limited liability company agreement states that you were formed for the purpose of providing administrative services for its sole member and other trust funds. Article 9(c) of the operating agreement provides that upon your dissolution, all remaining assets shall be distributed to the LLC Member.

Your sole member, or the LLC Member, is A. The other trusts funds you will administer are B, C, D, E, F, G and H.

You indicate that your services include collecting contributions, processing, handling, making and paying health, welfare, pension, vacation, apprenticeship, and similar benefits provided under the terms of each trust fund.

You indicate that the benefits provided by the LLC Member and the other trust funds that you administer (collectively the Trust Funds) are under benefit plans collectively bargained between management and labor of essentially the grocery and pharmacy stores throughout Northern R. You describe the benefit plans provided by the particular Trust Fund are as follows: The pension plans pay out pension benefits to retirees on a monthly basis based on a predetermined calculation or in one lump sum under a defined contribution plan. The welfare plans provide coverage on medical, dental, prescription drugs, vision and death benefits.

Section 501(c)(9) of the Code provides exemption to voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

Section 1.501(c)(9)-2(a)(1) of the Income Tax Regulations provides that the membership of an organization described in section 501(c)(9) must consist of individuals who become entitled to participate by reason of their being employees and whose eligibility for membership is defined by reference to objective standards that constitute an employment-related common bond among such individuals. For example, membership in an association might be open to all employees of a particular employer, or to employees in specified job classifications working for certain employers at specified locations and who are entitled to benefits by reason of one or more collective bargaining agreements.

Section 1.501(c)(9)-3(a) of the regulations provides that a voluntary employees' beneficiary association is not operated for the purpose of providing life, sick, accident, or other benefits unless substantially all of its operations are in furtherance of the provision of such benefits. Further, an organization is not described in this section if it systematically and knowingly provides more than a de minimis amount of other than life, sick, accident, or other benefits.

Section 1.501(c)(9)-3(f) of the regulations provides that the term 'other benefits' does not include any benefit that is similar to a pension or annuity payable at the time of mandatory or voluntary retirement, or a benefit that is similar to the benefit provided under a stock bonus or profit-sharing plan. For purposes of section 501(c)(9) and these regulations, a benefit will be considered similar to that provided under a pension, annuity, stock bonus or profit-sharing plan if it provides for deferred compensation that becomes payable by reason of the passage of time, rather than as the result of an unanticipated event. Thus, for example, supplemental unemployment benefits, which generally become payable by reason of unanticipated layoff, are not, for purposes of these regulations, considered similar to the benefit provided under a pension, annuity, stock bonus or profit-sharing plan.

Our analysis indicates that you will provide participants with benefits that include pension, medical, dental, prescription drugs, vision and death benefits. You will provide pension benefits to participants of the LLC Member and two other Trust Funds which were established solely

provide retiree pension benefits. You will provide medical, dental, prescription drugs, vision and death benefits to the rest of the Trust Funds. Pursuant to section 1.501(c)(9)-3(f) of the regulations, your provision of pension benefits is a provision of a type of benefits not permissible under section 501(c)(9) of the Code. Therefore, you are not operated for the purpose of providing life, sick, accident, or other benefits. See section 1.501(c)(9)-3(a) of the regulations.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(9) of the Code and you must file federal income tax returns on Form 1120.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

In the event this ruling becomes final, it will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, and do not intend to protest our denial of exempt status, you should follow the instructions in Notice 437.

If you decide to protest this ruling, your protest statement should be sent to the address shown below. If you also disagree with our proposed deletions, you should send your comments on the deletions with your protest statement, and not to the address shown in Notice 437.

Internal Revenue Service  
TE/GE, SE:T:EO:RA:T:3

1111 Constitution Ave, N.W.  
Washington, D.C. 20224

If you do not intend to protest this ruling, and if you agree with our proposed deletions as shown in the letter attached to Notice 437, you do not need to take any further action.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Ronald J. Shoemaker

Lois G. Lerner  
Director, Exempt Organizations  
Rulings & Agreements