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INTERNAL REVENUE SERVICE
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The Honorable Richard Lugar
United States Senate
Washington, DC 20510

Attention:

Dear Senator Lugar:

I am responding to your letter dated December 29, 2008, on behalf of your constituent, . asked why his application for exemption from social security and medicare taxes was not granted. As explained below, the authority to grant the exemption lies with the Social Security Administration. However, we are happy to provide general information on the exemption.

Social security taxes consist of taxes under the Self-Employment Contributions Act (SECA taxes), applicable to self-employed individuals and taxes under the Federal Insurance Contributions Act (FICA taxes), applicable to employers and employees. We do not know if is self-employed or is an employee. As explained below, the application for exemption is the same in either case.

The law provides an exemption from SECA taxes for certain individuals who are self-employed [section 1402(g) of the Internal Revenue Code]. This exemption applies to a member of a recognized religious sect or subdivision who follows the established tenets or teachings of the sect by reason of which the individual conscientiously opposes accepting the benefits of private or public insurance which makes payments in the event of death, disability, old-age, or retirement.

The law imposes several requirements for this exemption. The individual must attest to membership in and adherence to the tenets of a sect or subdivision with established tenets or teachings by reason of which he conscientiously opposes accepting the benefits of private or public insurance which makes payments in the event of death, disability, old age or retirement and the individual must also waive all social security benefits. The sect or division must certify that it:

- has been in existence continuously since December 31, 1950,
- Provides for its dependent members at a reasonable standard of living, and

- Holds established tenets according to which it is opposed to public or private insurance

An individual may apply for this exemption on Form 4029, Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits. The filing of the application does not constitute an exemption from the payment of SECA tax. An individual who files an application is exempt from payment of SECA tax only if the Commissioner of Social Security approves the application. The Commissioner will grant the application if he finds:

- The religious sect has the established tenets or teachings referred to above,
- The sect has for a period of time made provisions for its dependent members, and
- The sect or subdivision has been in existence at all times since December 31, 1950

In addition to the exemption from SECA taxes, the law provides a FICA tax exemption for employers and employees of the same religious sect or subdivision [section 3127 of the Code]. The requirements for this exemption are the same as the exemption for SECA tax as described above except that the both the employer and the employee must file Form 4029.

The Social Security Administration evaluates applications for exemption from social security and medicare taxes. We do not participate in the evaluation of these applications. You may wish to contact the Social Security Administration for information on this specific application.

I hope this information is helpful. As requested, I am replying in duplicate and returning your enclosure. If you have any questions, please contact me at () or at () .

Sincerely,

Lynne Camillo
Branch Chief, Employment Tax Branch 2 (Exempt Organizations/Employment Tax/Government Entities)
(Tax Exempt & Government Entities)

Enclosures (2)