



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Number: **200911037**  
Release Date: 3/13/2009

Date: December 17, 2008

UIL Number: 501.00-00; 501.09-00

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

501.00-00 Exemption From Tax on Corporations, Certain Trusts, etc. (Exempt v. Non-Exempt)

501.09-00 Voluntary Employees' Beneficiary Associations

Legend:

The VEBA =

The Union =

c = \$

d = \$

Year x =

Y =

This is in reply to your letter of June 6, 2008, on behalf of the VEBA, seeking a ruling with respect to the Section 501(c)(9) tax exemption of the VEBA.

The VEBA is a voluntary employee beneficiary association ("VEBA") under Section 501(c)(9) of the Internal Revenue Code (the "Code"). The VEBA is an employee benefit plan sponsored by its Board of Trustees, which is appointed by the Union. The VEBA receives contributions from public employers, on behalf of the Union's members. The Union represents the employees in collective bargaining, and enters into collective bargaining agreements which provide for employer contributions to the VEBA.

The VEBA currently provides medical, hospital, dental, psychiatric, optical, life insurance, and educational conference reimbursement to the VEBA's members, and their eligible dependents.

The VEBA's participants are employees who, due to the nature of their profession and stage of life, are extremely busy. Employees routinely work in excess of 80 hours per week. Because of their extremely busy and time-consuming work schedules, employees are particularly harmed by, and do not have the time required to cope with, an identity theft occurrence.

The Board of Trustees of the Union has decided to amend the VEBA's Summary Plan Description to provide for an identity theft insurance benefit as an additional benefit.

The Board of Trustees of the Union has decided to provide the identity theft benefit to every member who elects to receive the benefit. The VEBA will make the benefit optional, because some members may prefer, for privacy, security or other reasons, not to enjoy the benefit.

The Board of Trustees of the Union is concerned, however, whether the identity theft insurance is a permissible benefit and will not adversely affect the VEBA's tax exempt status under Section 501(c)(9) of the Code. Therefore, the Board of Trustees of the Union has decided to amend the VEBA's plan to provide the identity theft insurance benefit contingent upon receipt of a Private Letter Ruling from the Internal Revenue Service that the proposed amendment will not adversely affect the VEBA's tax exempt status.

The total benefits provided by the VEBA in year  $x$  are projected to be  $c$ . The VEBA has employed an actuary and benefits consultant to calculate the cost of the proposed identity theft benefit. The Actuary and Benefits Consultant has calculated that the cost would amount to  $d$  in year  $x$  in the unlikely event that the benefit is elected by all of the VEBA's members. Therefore, the proposed identity theft benefit would amount to  $y\%$  of total benefits paid by the VEBA if all members elected the additional identity theft insurance benefit.

Requested Ruling:

The VEBA may provide identity theft insurance to participants and dependents of the VEBA without adversely affecting the tax exempt status of the VEBA under Section 501(c)(9) of the Code.

**Law:**

Section 501(c)(9) of the Code describes a VEBA as an association that provides for the payment of life, sick, accident, or other benefits to its members or their dependents or designated beneficiaries.

Section 1.501(c)(9)-1(c) of the Treasury Regulations on Income Tax (the "regulations") provides that "substantially all" of the operations of a VEBA must be in furtherance of providing life, sick, accident or other benefits its members, their dependents, or their designated beneficiaries.

Section 1.501(c)(9)-3(a) of the regulations also provides that a VEBA will lose its exempt status if it systematically and knowingly provides more than a "de minimis" amount of nonqualifying benefits.

**Analysis:**

Section 1.501(c)(9)-1(c) requires that a VEBA must provide permissible benefits to permissible beneficiaries. However, it requires only that substantially all of the VEBA's operations be in furtherance of providing permissible benefits. The regulations do not impose an absolute prohibition against impermissible benefits. Providing for a de minimis or insubstantial amount of impermissible benefits does not taint an otherwise qualified Section 501(c)(9) organization. See section 1.501(c)(9)-3(a), supra.

According to the representations made, substantially all of the benefits that the VEBA will provide qualify as permissible benefits. The identity theft benefits would constitute an insubstantial amount of the benefits.

**Ruling:**

Based on the information submitted, representations made, and the authorities cited above, we conclude as follows:

The VEBA may provide identity theft insurance to participants and dependents of the VEBA without adversely affecting the tax exempt status of the VEBA under Section 501(c)(9) of the Code.

This ruling is conditioned on the understanding that there will be no material changes in the facts upon which it is based.

The VEBA has represented that it provides no other impermissible 501(c)(9) benefits, other than the identity theft insurance, and this ruling is conditioned upon that representation.

This ruling 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, you should follow the instructions in Notice 437.

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 by others as precedent.

Because this letter could help resolve any future questions about tax consequences of your activities, you should keep a copy of this ruling in your permanent records.

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

In accordance with the Power of Attorney and Declaration of Representative currently on file with the Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

Ronald J. Shoemaker  
Manager, Exempt Organizations  
Technical Group 2

Enclosure:  
Notice 437