



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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Person to Contact and ID Number:

UIL: 501.09-01

Contact Telephone Number:

Dear *****:

This is in response to your letter dated March 11, 2010, requesting an information letter on whether the definition of "other benefits" as defined in Treas. Reg. § 501(c)(9)-3(d) may include noncash benefits.

Section 501(c)(9) of the Internal Revenue Code provides for the exemption from federal tax of voluntary employees' beneficiary associations that provide 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.

Treas. Reg. § 1.501(c)(9)-3(c) provides that the term "sick and accident benefits" means amounts furnished to or on behalf of a member or a member's dependents in the event of illness or personal injury to a member or dependent. Sick and accident benefits may be furnished in noncash form, such as, for example, benefits in the nature of clinical care services by visiting nurses, and transportation furnished for medical care.

Treas. Reg. § 1.501(c)(9)-3(d) 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.

“Other benefits” do not have to be provided in cash. See Treas. Reg. § 1.501(c)(9)-3(e) (permissible benefits include paying vacation benefits, providing vacation facilities, reimbursing vacation expenses, subsidizing recreational activities such as athletic leagues, and providing child-care facilities for preschool and school-age dependents). They could include, for example, providing educational material (content) to a member or a member's dependents with the intent of safeguarding or improving the health of the member or a member's dependents. See Treas. Reg. § 1.501(c)(9)-3(e) (“other benefits” also include education or training benefits or courses (such as apprentice training programs) for members).

Whether a non-cash benefit falls within the definition of Treas. Reg. § 501(c)(9)-3(d) depends on the facts and circumstances of the particular situation. Treas. Reg. § 1.501(c)(9)-3(a) further provides that an organization is not described in section 501(c)(9) if it systematically and knowingly provides impermissible benefits of more than a *de minimis* amount.

If a VEBA wants a ruling on whether providing a specific noncash benefit qualifies as “other benefits” as defined in Treas. Reg. § 501(c)(9)-3(d), the VEBA must request the Internal Revenue Service to rule on this matter under our private letter ruling program. A copy of the Revenue Procedure 2010-4, 2010-1 I.R.B. 122, is enclosed.

This letter is for informational purposes only and is intended to provide general statements of well-defined law. It is not a ruling and may not be relied on as such. See Rev. Proc. 2010-4, 2010-1 I.R.B. 122 (or its successor).

This letter will be made available for public inspection. The Internal Revenue Service will delete any name, address and other identifying information as appropriate under the Freedom of Information Act. See Announcement 2000-2, 2000-2 I.R.B. 295.

Sincerely,

David L. Fish
Manager, Exempt Organizations, Guidance

Enclosure