



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **201246039**
Release Date: 11/16/2012

Date: August 21, 2012

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

UIL: 501.06-00

LEGEND:

You =
State =
Date 1 =
x =

Dear

This letter is in reference to your letter from your authorized representative. You are requesting rulings, as amended, under § 501(c)(6) of the Internal Revenue Code with regard to private inurement and unrelated business income tax.

FACTS:

You are a business league in State. You were recognized as exempt from federal income tax as an organization described in § 501(c)(6) by letter on Date 1.

A State statute provides for the establishment of a Development Fund within State's Treasury. State will make distributions from the Development Fund to certain types of organizations, including you. You must use the distribution to fund health and pension benefits to your members, their families, employees, and others in accordance with your rules and eligibility requirements, as approved by a State Commission. Also from the distribution, you will annually pay \$x to a particular organization, at the place where you operate your activities, for health insurance, life insurance, or other benefits to active and disabled individuals in accordance with your rules and eligibility requirements.

Your website states that your members in good standing and their dependents are eligible for your Health Care Plan and your Pension Plan. In addition, full-time employees of your members are eligible for your Pension Plan. You state that you interview insurance providers and administrators and select the plan features to be provided as well as the provider. You pay

the premiums as they become due based on a billing from the provider.

You describe your eligibility guidelines as straightforward and easily administered. One of your employees tracks the eligibility standards for each member. When an individual achieves the required eligibility standards, his name is added to the monthly roster sent to the provider. Based on this record, the provider's representative notifies each member of the benefit program and the member's eligibility date.

You represent that you do not receive any fees for particular services. Amounts you receive from the Development Fund under the state formula for purposes of providing health and pension benefits are used exclusively for providing for such benefits and for the reasonable administrative costs of providing such benefits, not to exceed an amount specified by the statute. No amount received from the Development Fund for the purpose of providing health and welfare benefits is returned to you for your own use.

You state that you are reimbursed from the Development Fund for a portion of your controller's compensation. Controller is a part-time employee whose primary responsibility is the Development Fund, including general accounting and internal controls of the Development Fund monies, financial reporting to State Control Board, working directly with the auditors for the State Control Board, the State Department of Agriculture, and you, and working with the pension fund actuaries and other professionals.

You are required to file an annual audit of funds received from the Development Fund with the State Control Board. The expense of this audit is paid from Development Fund funds. Furthermore, the State Department of Agriculture engages an auditing firm to conduct an independent audit of all expenditures of all organizations similar to you that receive Development Fund funds. The State Department of Agriculture allocates the expense of this audit among the organizations, and you pay this expense out of Development Fund funds, not out of your general account. You engage and pay for an independent certified public accountant to audit you and your related entities.

You state that, in summary, no funds received from the Development Fund for the purpose of providing pension, health, and welfare benefits are used for your general purposes, but are used as set forth in the State statute establishing and governing the Development Fund. Any amounts received from the Development Fund for such benefits are used solely for providing the benefits and for the reasonable administrative expenses of paying such benefits. The reasonable administrative expenses include the controller's allocable expense directly related to the benefits programs, and such expense is reimbursed from the Development Fund, not paid by you. You do not charge and are not paid a fee for services related to provision of benefits.

RULINGS REQUESTED:

(1) Providing the proposed benefits will not result in "private inurement" as described in § 501(c)(6), and

(2) Providing the proposed benefits will not adversely affect your § 501(c)(6) status.

LAW:

Section 501(c)(6) provides, in part, for the exemption from federal income tax of business leagues, chambers of commerce, real-estate boards, boards of trade, not organized for profit and no part of the net earnings of which inures to be benefit of any private shareholder or individual.

Section 511(a) imposes a tax for each taxable year on the unrelated business taxable income of every organization described in § 501(c).

Section 513(a) defines "unrelated trade or business" (in the case of an organization subject to the tax imposed by § 511) as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its exempt purpose or function.

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization, whose purpose is to engage in a regular business of a kind ordinarily carried on for a profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

Rev. Rul. 66-151, 1966-1 C.B. 152, holds that the management of health and welfare plans for a fee by a business league exempt under § 501(c)(6) is an unrelated business within the meaning of § 513. The organization is composed of firms in a particular industry, and its purpose and principal activity is to represent such firms in all matters pertaining to their relations with labor and labor unions. The organization also regularly manages health and welfare plans for its members, and receives a fixed fee for each employee covered by the plan; significant amounts of the organization's income and expenses are attributable to the management of these plans. The revenue ruling concludes that the management of the plans by the organization constitutes the conduct of unrelated trade or business.

Rev. Rul. 67-251, 1967-2 C.B. 196, holds that a business league which extends financial aid and welfare services to its members does not qualify for exemption under § 501(c)(6) since part of its net earnings is inuring to the benefit of private individuals, even though its financial aid to members is minor in relation to its other activities which are directed to improvement of business conditions in a line of business.

Rev. Rul. 71-155, 1971-1 C.B. 152, concerns a nonprofit association composed of insurance companies that write a specified type of insurance and are licensed in a particular State. The organization was formed pursuant to State and Federal programs that are designed to make insurance available to persons who are in high-risk categories and cannot otherwise obtain coverage. The purpose of the organization is to provide for the equitable distribution of high-risk policies among all members. The revenue ruling holds that the organization's activities promote the common business interest of the members since the spreading of high risk policies among its members provides insurance to persons who would normally be unable to obtain insurance and minimizes public criticism of the industry. Thus, its activities are directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for its individual members, and the organization is exempt from tax under § 501(c)(6).

Rev. Rul. 73-452, 1973-2 C.B. 183, concerns a nonprofit corporation created by State statute to pay claims against insolvent insurance companies. All insurance companies writing fire and casualty insurance in the State are required by statute to be members of the organization. The revenue ruling states that by assuring the payment of the claims and providing means for their orderly liquidation, the organization is serving a quasi-public function imposed by law which is directed at relieving a common cause of hardship and distress of broad public concern in the field of insurance protection. This function also serves an important common business interest of the industry by meeting a widespread need which is incident to the field of insurance, could not be effectively met in the ordinary course of the individual insurance businesses of the members, and does not directly enhance the profitability of such individual businesses. It thus appears that the organization's activities do not constitute the performance of particular services for its individual members but are instead directed towards the improvement of business conditions in a line of business. Accordingly, the organization is exempt from Federal income tax under § 501(c)(6).

Rev. Rul. 76-410, 1976-2 C.B. 155, holds that a nonprofit organization composed of insurance companies operating with a State and created under the State's no-fault insurance statute to provide personal injury protection benefits for residents of the State who sustain injury in situations where the injuring party is unknown or has very limited or no liability coverage qualifies for exemption under § 501(c)(6). The organization's activities promote the common business interests of its members by fulfilling an obligation that the State has imposed upon the insurance industry as a prerequisite for doing business with the State and by enhancing the image of the industry.

ANALYSIS:

As a § 501(c)(6) organization, you may not allow your net earnings to inure to the benefit of any private shareholder or individual, and your activities must be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

Your state law requires that certain organizations provide health and welfare benefits to their

members out of amounts allocated to those organizations from a State fund. By this means, the State legislature intends that every member of such organizations in the State and meeting eligibility requirements approved by a State board receive some form of health and pension benefits at no cost to the member.

Like the insurance activities described in Rev. Rul. 71-155, supra, using State funds to procure health and pension benefits for your members and their employees is a way of providing insurance to persons who would normally be unable to obtain such benefits, thereby improving the image of the industry. By using State funds to provide health and pension benefits to your members, you are serving a function imposed by law which is directed at relieving a cause of hardship and distress in a particular industry in State. Rev. Rul. 73-452 and Rev. Rul. 76-410. You are complying with a legal mandate that will improve business conditions in your members' line of business rather than performing particular services for individual members. Consequently, such activities are considered to be substantially related to your exempt purposes, and would not affect your recognition under §501(c)(6).

Unlike the organization described in Rev. Rul. 67-251, supra, your net earnings would not inure to the benefit of private shareholders or individuals when you use State funds to provide State-mandated benefits to your members. You are not using your own earnings to fund the benefits, but amounts allocated by the State from a State fund expressly for the purpose of providing such benefits. Furthermore, unlike the organization described in Rev. Rul. 66-151, supra, you do not manage the health and pension plans yourself, but merely arrange for coverage with an insurer using State funds to pay the premiums. In addition, the amounts received from the State fund do not represent a fixed fee for each member covered by an insurance plan, but merely a lump sum earmarked for the provision of benefits to members. Therefore, we conclude that redirecting the sums from the State Development Fund to purchase state-mandated coverage is not inurement of your net earnings to your members.

RULINGS:

Accordingly, based on the facts and circumstances discussed above, we rule as follows:

- (1) Providing the proposed benefits will not result in private inurement as described in § 501(c)(6), and
- (2) Providing the proposed benefits will not adversely affect your § 501(c)(6) status.

This ruling is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. Any changes that may have a bearing upon your tax status should be reported to the Service. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records. Pursuant to a Power of Attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Except as we have specifically ruled herein, we express no opinion as to the consequences of this transaction under the cited provisions or under any other provision of the Code.

This ruling will be made available for public inspection under § 6110 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) provides that it may not be used or cited as precedent.

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

Enclosure
Notice 437

Sincerely yours,

Ronald J. Shoemaker
Manager, Exempt Organizations
Technical Group 2