

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
, ID No.  
Telephone Number:

In Re:

Refer Reply To:  
CC:TEGE:EOEG:EO2  
PLR-108930-16  
Date:  
September 13, 2016

Legend

Taxpayer =  
Date =  
State =  
Plans =

Dear :

This letter responds to a letter from your authorized representative dated January 19, 2016, submitted on behalf of the Taxpayer, requesting a ruling that the Taxpayer's income is excludable from gross income under Internal Revenue Code (IRC) section 115 for its initial tax year ended June 30, , and all subsequent tax years. The Taxpayer represents the facts as follows.

FACTS

The Taxpayer was established on Date, pursuant to the laws of the State as provided by statute. The Taxpayer operates pursuant to its articles of association and by-laws. The Taxpayer was established by various political subdivisions of State (the participating employers) to hold assets to be used to provide self-funded, pooled self-funded or purchased insurance programs for their employees as provided under the Plans. The Taxpayer is managed by a nine-member board of trustees. Each board member is elected by the participating employers. The board administers the Plans. The Plans provide coverage for medical, pharmacy, dental, vision, mental health and disability insurance for the employees of the participating employers.

Each participating employer of The Taxpayer must be a political subdivision created by and existing under the laws of State as provided by statute.

The Taxpayer states that it holds all contributions of participating employers, together with any appreciation, to be managed and administered pursuant to the terms of the articles of association and by-laws. The Taxpayer's assets are applied for the purpose of providing health benefits under the Plans, providing related administrative services, and paying the reasonable expenses of administering the Plans. The Taxpayer states that no part of the Taxpayer's assets will inure to private interest, other than to pay the reasonable expenses of administering the Plans. The Taxpayer states that they are able to utilize the savings they are achieving on their health benefits and apply those resources elsewhere within the State's budget. No individual or entity has any rights under the Plans or under the Taxpayer except as provided in the Plans and in the articles of association and by-laws. Any attempt to assert additional rights will be void.

The Taxpayer and the Plans are always to be operated to comply with all requirements under the IRC.

The Taxpayer may be dissolved by a two-thirds vote of the board. However, upon the Taxpayer's dissolution, all of its net assets will be distributed to the political subdivisions of State (the participating employers) as set forth in the Taxpayer's by-laws. Accordingly, the Taxpayer's income accrues to the political subdivisions. In no event will the Taxpayer's assets be distributed or revert to any entity that is not a state, a political subdivision of a state, or an entity the income of which is excludable from its gross income by application of IRC section 115.

#### LAW AND ANALYSIS

IRC section 115(1) provides that gross income does not include income derived from any public utility or the exercise of any essential governmental function and accruing to a state or any political subdivision thereof.

Rev. Rul. 77-261, 1977-2 C.B. 45, holds that income generated by an investment fund that is established by a state to hold revenues in excess of the amounts needed to meet current expenses is excludable from gross income under IRC section 115(1) because such investment constitutes an essential governmental function. The ruling explains that the statutory exclusion is intended to extend not to the income of a state or municipality resulting from its own participation in activities, but rather to the income of an entity engaged in the operation of a public utility or the performance of some governmental function that accrues to either a state or political subdivision of a state. The ruling points out that it may be assumed that Congress did not desire in any way to restrict a state's participation in enterprises that might be useful in carrying out projects that are desirable from the standpoint of a state government and that are within the ambit of a sovereign to conduct.

Rev. Rul. 90-74, 1990-2 C.B. 34, holds that the income of an organization formed, funded, and operated by political subdivisions to pool various risks (e.g., casualty, public liability, workers' compensation, and employees' health) is excludable from gross income under IRC section 115(1) because the organization is performing an essential governmental function. The revenue ruling states that the income of such an organization is excludable from gross income so long as private interests do not participate in the organization or benefit more than incidentally from the organization. The benefit to the employees of the insurance coverage obtained by the member political subdivisions is deemed incidental to the public benefit.

Through the Taxpayer, political subdivisions of State are able to provide various health benefits to their employees. Providing these health benefits constitutes the performance of an essential government function within the meaning of IRC section 115(1). See Rev. Rul. 90-74 and Rev. Rul. 77-261.

Taxpayer's income accrues to political subdivisions of State. No private interests will participate in, or benefit from, the operation of the Taxpayer other than as providers of goods or services. The benefit to the employees is incidental to the public benefit. See Rev. Rul. 90-74.

In no event, including dissolution, will the Taxpayer's assets be distributed or revert to any entity that is not a state, a political subdivision of a state, or another entity the income of which is excludable from its gross income by application of IRC section 115.

Based solely on the facts and representations submitted by the Taxpayer, we conclude that because the income of the Taxpayer derives from the exercise of an essential governmental function and accrues to a state or a political subdivision thereof, the Taxpayer's income is excludable from gross income under IRC section 115 for its initial tax year ended June 30, , and all subsequent tax years.

No opinion is expressed concerning the federal tax consequences under any IRC provision other than the one specifically cited above. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. This ruling concerns only the federal tax treatment of the Taxpayer's income and may not be cited or relied upon by any taxpayer, including the Taxpayer, the participating employers and any recipients of benefits paid under the terms of the Plans, as to any matter relating to the taxation of accident or health contributions or benefits.

This ruling is directed only to the taxpayer requesting it. IRC section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by the Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Andrew F. Megosh, Jr.  
Senior Tax Law Specialist  
(Tax Exempt & Government Entities)

cc: