

OCT 25 1964

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(9) of the Internal Revenue Code of 1954.

You are an association that provides an employee benefit plan for the employees of [REDACTED]. There are [REDACTED] employees, all of whom participate in the plan. The benefit provided is a death benefit for participants that is equal to each participant's annual salary. The benefit is provided by the purchase of whole life insurance policies.

[REDACTED] is the president of the corporation, receives an annual salary of \$[REDACTED], and owns [REDACTED]% of its stock. [REDACTED] is secretary of the corporation, receives an annual salary of \$[REDACTED], and owns [REDACTED]% of its stock. [REDACTED] is the owner of [REDACTED]% of the corporation's stock, and receives an annual salary of \$[REDACTED]. The remaining [REDACTED]% stock interest is held by [REDACTED] other members of the [REDACTED] family. The remaining [REDACTED] plan members receive salaries of \$[REDACTED], \$[REDACTED], and \$[REDACTED]. The association is governed by a committee consisting of [REDACTED], and [REDACTED] of the plan participants who are not members of the [REDACTED] family. The association is employer funded, and may be terminated at any time by the employer, with remaining funds being used to provide additional benefits.

Section 501(c)(9) of the Code provides for the exemption from federal income tax of voluntary employee beneficiary associations providing 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.

Section 1.501(c)(9)-4(a) of the Income Tax Regulations provides that no part of the net earnings of an employee association may inure to the benefit of any private shareholder or individual other than through the payment of permissible benefits. Whether prohibited inurement has occurred is a question to be determined with regard to all the facts and circumstances.

[REDACTED]

A section 501(c)(3) VBA functions primarily as a cooperative device for pooling funds and distributing them over and benefits to a defined group of employees sharing an employment-related common bond. Prohibited inurement arises when a VBA serves the use or benefit of one or more individuals other than through the performance of functions characteristic of organizations described in section 501(c)(3). Thus, the inurement prohibition would bar tax-exempt treatment of an organization predominantly organized and operated to serve the interest of individuals standing in relationship to the organization as a trustee for private gain.

In your case, the [REDACTED] are the sole owners of the employer corporation. The [REDACTED] wholly is entitled to upward of 50% of the total available benefits. Under the circumstances, we believe that the [REDACTED] wholly maintains a posture that is incompatible with the inurement prohibition of section 1.501(c)(3)-1(a) of the regulations. A limited ownership in conjunction with the allocation of a dominant share of benefits to other members indicates that the association is private and operated for the benefit of its own members and not for any employee group. An organization functioning in this manner is inconsistent with the exempt purpose of a VBA of providing benefits to promote the common welfare of an association of employees.

Neither on nor the use of permanent nonvesting (death-life) would be consistent with section 1.501(c)(3)-1(b) of the Internal Revenue Regulations is currently under study by the Internal Revenue Service.

Accordingly, based on all the facts and circumstances, we conclude that you do not qualify for recognition of exempt status under section 501(c)(3) of the Code. You are, therefore, required to file federal tax returns.

You have a right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted within 90 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Procedures.

[Redacted]

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to the District Director, Brooklyn, New York. Therefore, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

Sincerely yours,

(Signed) [Redacted]

[Redacted]

Chief, Rulings Organization
Rulings Branch

NY

cc

[Redacted]

to

[Redacted]

[Redacted]

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[Redacted]	[Redacted]					
Date	10/1/74	10/1/74					