



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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Contact Person:

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Telephone Number:

Employer Identification Number:

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Legend:

Taxpayer =

State =

Local Governments =

This is in reply to your letter dated July 9, 2008, and subsequent correspondence, submitted on behalf of the Trust, concerning whether making certain lobbying expenditures will adversely affect Taxpayer's tax exempt status under Section 501(c)(9) of the Internal Revenue Code.

Taxpayer is a jointly trustee multi-employer, multi-union , whose mission is to establish, through the cooperative efforts of public school districts and their employees' unions, a comprehensive health and benefits program for eligible school employees in an area of the State.

The State Legislature is considering comprehensive health care reform. A number of bills are pending before the State Legislature which would modify the existing legal regime governing health care benefits. Many of these changes have the potential to affect the existence of the Taxpayer, its powers and duties, and the universe of those eligible for the types of benefits the Taxpayer exists to provide.

Taxpayer proposes to engage a paid professional lobbyist to monitor and report to it about the progress of such bills and to make appearances before, or communications with, the Legislature and Governor solely with respect to decisions which might affect the continued existence of the Taxpayer, its powers and duties, and/or tax-exempt status. The Taxpayer would take steps, both contractually and in terms of its instructions to its lobbyist, to ensure that the lobbying activities were strictly limited to the foregoing topics. In addition, it is possible that the Taxpayer would also authorize its lobbyist or other representatives to respond to written requests for technical advice or assistance from a state legislative committee or regulatory body, in connection with the impact of any proposed legislation on the continued existence of the Taxpayer, its powers and duties, and/or tax-exempt status.

Specifically, Taxpayer's lobbying will be directed at ensuring that health insurance reforms allow Taxpayer to avail its beneficiaries of the advantages of pooling of resources and concentration of purchasing power; and to ensure that health reforms allow Taxpayer to provide benefits in addition to statutory minimums and to fill gaps in coverage. In addition Taxpayer's lobbying expenditures may be used for providing testimony or technical assistance to the state Legislature. Taxpayer would not engage in any grassroots lobbying.

Taxpayer spends virtually all of its revenue on benefit premiums to insurance carriers or health maintenance organizations. In recent years, its administrative expenses have been only 1.4 percent of its total revenues. This percentage, while it varies slightly from year to year, is relatively constant over time. The lobbying expenses that Taxpayer proposes to incur would not exceed one-tenth of one percent of Taxpayer's annual revenue.

Taxpayer does not envision lobbying expenses as an ongoing expense, but, rather, will limit its lobbying activities to years in which there are what Taxpayer considers to be "serious" comprehensive health care reforms potentially impacting Taxpayer's existence, its powers and duties, and the universe of those eligible for the types of benefits the Taxpayer exists to provide.

Ruling Requested:

Taxpayer's expenditure of up to 0.1 percent of its revenues in any year to monitor for Taxpayer, and report to Taxpayer about, comprehensive health insurance reform efforts, and to make appearances before, or communicate with, the Legislature and Governor on Taxpayer's behalf solely with respect to decisions which might affect the continued existence of the Taxpayer, its powers and duties, or its tax-exempt status, will not cause it to lose exemption under Section 501(c)(9) of the Code.

Law:

Section 501(c)(9) of the Code provides for exemption from federal income tax of voluntary employee's beneficiary associations which 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 (other than through such payments) inures to the benefits of any private shareholder or individual.

Section 1.501(c)(9)-1(c) of the Treasury Regulations on Income Tax provides that "substantially all" of a section 501(c)(9) organization's operations must be in furtherance of providing . . . benefits" such as life, sick, accident or other benefits.

Section 1.509(c)(9)-3(d) provides that the term other benefits includes only benefits that are similar to life, sick or accident benefits, including only benefits that are intended to safeguard or improve the health of a member or a member's dependents, or benefits that protect against a contingency that interrupts or impairs a member's earning power.

Analysis:

Under section 1.501(c)(9)-1(c) of the regulations, "substantially all" of a section 501(c)(9) organization's operations must be "in furtherance of providing . . . benefits" such as life, sick, accident benefits. Section 1.509(c)(9)-3(d) provides that the term other benefits includes only benefits that are similar to life, sick or accident benefits, including only benefits that are intended to safeguard or improve the health of a member or a member's dependents, or benefits that protect against a contingency that interrupts or impairs a member's earning power.

Lobbying expenses are not "other benefits" within the meaning of the regulations. A very small amount of lobbying expenses could arguably be treated as de minimus administrative expenses.

Here, Taxpayer proposes to limit its expenditures to those expenses necessary to monitor for Taxpayer, and report to Taxpayer about, comprehensive health insurance reform efforts, and to make appearances before, or communicate with, the Legislature and Governor on Taxpayer's behalf solely with respect to decisions which might affect the continued existence of the Taxpayer, its powers and duties, and/or tax-exempt status. We also note that the lobbying expenses relate to specific legislation and are not incurred yearly on an ongoing basis.

Taxpayers total administrative expenses are approximately 1.4 percent per year, and the proposed lobbying expense would add only another 0.1 percent to such expenses. Thus over 98 percent of Taxpayer's revenues are expended for permissible purposes, and accordingly "substantially all" of Taxpayer's operations are in furtherance of providing permissible benefits to Taxpayer's beneficiaries.

Ruling:

Taxpayer's expenditure of approximately 0.1 percent of its premium income in any year to monitor for Taxpayer, and report to Taxpayer about, comprehensive health insurance reform efforts, and to make appearances before, or communicate with, the Legislature and Governor on Taxpayer's behalf solely with respect to decisions which might affect the continued existence of the Taxpayer, its powers and duties, or its tax-exempt status, will not cause it to lose its exemption 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.

This ruling is limited to the issue discussed above. Nothing in this ruling determines any other issue under the Internal Revenue Code.

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 Technical Group 2

Enclosure: Notice 437