

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

Date:

14 APR 1992

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Release Copies to District

Date: 5/28/92
Signature: [REDACTED]

Dear Applicant:

We have considered your application for exemption under section 501(c)(9) of the Internal Revenue Code.

The information submitted indicates that you were formed on [REDACTED]. Your purpose is to provide for the payment of hospitalization, medical and related expenses for members of the [REDACTED], hereinafter known as [REDACTED].

You will accomplish this purpose by establishing and funding a health plan for the members of [REDACTED].

The health plan is administered by your trustee, [REDACTED], the president of [REDACTED]. You have executed an administrative services contract with [REDACTED].

Participants make monthly contributions to the health plan. These participants include independent owner-operator truck drivers, fleet operators and employees of truck drivers and fleet operators. The independent owner-operator truck drivers are not employees nor are they affiliated employers. They are independent contractors. A fleet operator is an owner-employer with more than one truck driver. Fleet operators are not affiliated employers. Participation is strictly voluntary.

To participate in the health plan, the individual must be a member of [REDACTED]. The individual must also be actively working a minimum of [REDACTED] hours per week. There are [REDACTED] participants in the plan. Independent owner-operator truck drivers comprise [REDACTED]% of the plan participants. Employees of these independent drivers and fleet operators are [REDACTED]% of the plan participants. Fleet operators make up the remaining [REDACTED]% of the plan participants.

At no time during the taxable year does [REDACTED]% of your total membership consist of employee-members.

Employee-members are not part of any labor union nor are they covered by any collective bargaining agreements.

Employers operate throughout the continental United States.

There are no highly compensated individuals covered by the health plan. All plan members are treated the same.

No part of the net earnings inures to the benefit of any private shareholder or individual.

Section 501(c)(9) of the Internal Revenue Code provides exemption from federal income tax for voluntary employees' beneficiary associations (VEBAs) which provide for the payment of life, sick, accident or other benefits to its members or their dependents, or designated beneficiaries, if no part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual.

Section 1.501(c)(9)-1 of the Income Tax Regulations provides that, to be described in section 501(c)(9), an organization must meet all of the following requirements:

- (a) The organization is an employees' association,
- (b) Membership in the association is voluntary,
- (c) The organization provides for the payment of life, sick, accident, or other benefits to its members or their dependents or designated beneficiaries, and substantially all of its operations are in furtherance of providing such benefits, and
- (d) No part of the net earnings of the organization inures, other than by payment of the benefits referred to in paragraph (c) of this section, to the benefit of any private shareholder or individual.

Section 1.501(c)(9)-2(a)(1) of the regulations provides that the membership of an organization described in section 501(c)(9) must consist of individuals who become entitled to participate by reason of their being employees and whose eligibility for membership is defined by reference to objective standards that constitute an employment-related common bond among such individuals.

Such an employment-related common bond can be established by proof of employees being employed by a common employer or affiliated employers, coverage under one or more collective bargaining agreements, or membership in a labor union. In addition, employees of one or more employers engaged in the same line of business in the same geographic locale will be considered to share an employment-related bond for purposes of

[REDACTED]

an organization through which their employers provide benefits.

This section also provides that exemption will not be denied merely because the membership of an association includes some individuals who are not employees, provided that such individuals share an employment-related common bond with the employee-members. Such individuals may include, for example, the proprietor of a business whose employees are members of the association. For purposes of the preceding two sentences, an association will be considered to be composed of employees if 90 percent of the total membership of the association on one day of each quarter of the association's taxable year consists of employees.

In your case, [REDACTED]% of your [REDACTED] member-participants are non-employees. They are independent contractors or owners.

Non-employee members are permitted to participate in a VEBA. However, at no time during the taxable year does [REDACTED]% of your total membership consist of employee-members.

Your employee-members work for independent truck drivers and fleet operators. Your employee-members are not part of any affiliated group of employers. Your employee-members are not covered under one or more collective bargaining agreements, nor are they part of the membership of any labor union. Also, the employers involved are all engaged in the trucking business, however, they operate throughout the continental United States. Therefore, there is no employment-related common bond among your employee-members.

You are not within the purview of section 1.501(c)(9)-2(a)(1) of the regulations and therefore are not within the purview of section 1.501(c)(9)-1 of the regulations.

Accordingly, you do not qualify for exemption under section 501(c)(9) of the Code.

You have the 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 officers, must be submitted within 30 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 officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

[REDACTED]

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director in Chicago, IL. Thereafter, any questions about your federal income tax status should be addressed to that office.

Sincerely yours,

(Signed) [REDACTED]
[REDACTED]
Chief, Exempt Organizations
Rulings Branch 1

/ cc: [REDACTED] 8/10/92 [REDACTED]

Code: [REDACTED]

Surname: [REDACTED]

Date: 3/27/92

4/10/92