

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

JUL 17 1991

DO: [REDACTED]
EIN: [REDACTED]

Dear Applicant:

This is in reply to your application for recognition of exemption under section 501(c)(6) of the Internal Revenue Code.

We have reviewed the information you have submitted and have concluded that you do not qualify for exemption under section 501(c)(6) of the Code because your primary purpose is to perform a particular service for your members and that you are, in part, engaging in a business of a kind ordinarily carried on for profit.

The information you have submitted indicates that you were established to assume the workers' compensation obligations of insolvent private self-insured companies in the State of [REDACTED]. You were established pursuant to a state statute which governs the activities of qualifying companies which have been granted permission by the state to be self-insured instead of contributing to the workers' compensation fund. All self-insured companies, except for governmental entities, or public utilities are required to be members of the association. The member companies are assessed at a rate set by statute on a security amount established by [REDACTED]. Your activities are directed by a board of directors which is appointed by [REDACTED]. You are responsible for processing all claims against insolvent members and making the appropriate compensation payments out of the funds you have accumulated.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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. The activities of the

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organization 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. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for 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. 68-264, 1968-1 C.B. 264 defines a particular service for the purposes of section 501(c)(6) of the Code as being an activity that serves as a convenience or an economy to the members of the organization in the operation of their businesses.

Rev. Rul. 73-452, 1973-2 C.B. 183 holds that an organization created under State statute to pay claims against insolvent fire and casualty insurance companies qualifies for exemption as a business league under section 501(c)(6) of the Code. The ruling holds that by assuring the payment of claims and providing a 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. It was also recognized that the function served 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 did not directly enhance the profitability of such individual businesses.

Rev. Rul. 74-81, 1974-1 C.B. 135 holds that a nonprofit organization formed to promote the business welfare and interests of persons engaged in the contracting trade and related industries and whose principal activity is to provide its members with group workmen's compensation insurance which was underwritten by a private insurance company is not entitled to exemption under section 501(c)(6) of the Code.

Rev. Rul. 81-174, 1981-1 C.B. 336 holds that a nonprofit association of insurance companies that provides medical malpractice insurance to health care providers is not exempt under section 501(c)(6) of the Code. The organization is operating in a manner similar to a business ordinarily carried on for profit and also serves as an economy or convenience to its members in providing necessary protection to its policyholders.

The information you have submitted establishes that you were established by the state to enable qualifying companies to have

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an alternative to participating in the state workmen's compensation insurance program. You are operating as a mutual insurance company because the assessments imposed upon your members create an insurance fund to pay the claims against your insolvent members.

In Rev. Rul. 74-81 the Service recognized that providing group workmen's compensation insurance for members through a private insurance company relieves the members of the obligation of obtaining this insurance on an individual basis. This serves as an economy and a convenience to them in performing their individual business, a particular service within the meaning of section 501(c)(6) of the Code. Hence the organization did not qualify under section 501(c)(6). In Rev. Rul. 81-174 the Service recognized that an organization operating a mutual medical malpractice insurance fund is both providing a particular service to its members and also operating in a manner similar to a business carried on for profit. Therefore, it also did not qualify for exemption under section 501(c)(6).

You provide your members a vehicle to enable them to meet the requirements of the state law governing the provision of workers' compensation insurance. Furthermore, in some instances you will be acting as an insurer because your members have agreed to accept a certain element of risk by insuring any member who becomes insolvent. Accordingly, we have concluded that the holdings in Rev. Ruls. 74-81 and 81-174 are applicable and you do not qualify for exemption under section 501(c)(6) of the Code.

Your program is distinguishable from that of the organization described in Rev. Rul. 73-452 in that your activities are not directed at relieving a common cause of hardship and distress of broad public concern. Your members have elected to become self-insured. They have concluded that this alternative is a preferable way of doing business. This does not meet a need incident to the performance of your members' businesses which can not be effectively met in the ordinary course of their business. Therefore, as stated above, this constitutes a particular service and you do not qualify for exemption under section 501(c)(6) of the Code. In addition, because there is an element of risk sharing you are operating in a manner similar to an insurance company and do not qualify for exemption under section 501(c)(6).

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

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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 or directors, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

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. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: [REDACTED]. These symbols do not refer to your case but rather to its location.

Sincerely yours,

(signed) [REDACTED]

[REDACTED]
Chief, Exempt Organizations
Rulings Branch 1

cc: [REDACTED]

[REDACTED]
[REDACTED]

6/26/91

[REDACTED]
[REDACTED]
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