DENIAL [redacted]

No Record [redacted] S-7-15-84

NO REPORT RECEIVED
Release copies to District.
Date 7/16/84
Surname [redacted]

[redacted]

[redacted]

INTERNAL
REVENUE SERVICE
CINCINNATI, OHIO

OCT 15 1984

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EP/EO DIV.

Ladies and Gentlemen:

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

The information submitted shows you are a corporation formed on [redacted] to provide benefits to employees of [redacted]. Benefits provided include disability, variable life, group term life and hospitalization. In [redacted], benefits were received by [redacted] and [redacted]. Your members, their salaries and current benefits are listed below. [redacted] is the sole proprietor of [redacted]

VEBA Member	Salary	Disability Benefit	Variable Life Benefit	Group Term Life Benefit
[redacted]	$[redacted]	$[redacted]	$[redacted]	$[redacted]
	$[redacted]	$[redacted]	$[redacted]	$[redacted]

Section 501(c)(9) of the Code provides for exemption from federal income tax of voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of the association 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(a)-1(c) of the Income Tax Regulations provides that the words "private shareholder or individual" used in section 501 refer to persons having a personal and private interest in the activities of the organization.

[redacted]

Section 1.501(c)(9)-4(a) of the regulations provides that no part of the net earnings of an employees' 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.

Based on the information available, we conclude that you are not a voluntary employees' beneficiary association as that term is used in section 501(c)(9) of the Code.

Prohibited inurement arises when a voluntary employees' beneficiary association (VEBA) serves the use or benefit of an individual other than through the proper performance of functions characteristic of organizations described in section 501(c)(9). A VEBA functions primarily as a cooperative device for pooling funds, and distributing risks and benefits to a defined group of employees sharing an employment-related common bond. While an organization may provide benefits to promote the common welfare of an association of employees in a manner consistent with section 501(c)(9), the inurement proscription bars the tax-exempt treatment of an organization predominantly organized and operated to promote the interest of an individual standing in relationship to the organization as an investor for private gain.

Your VEBA is comprised of a small number of members and it provides a dominant share of its benefits to its highly compensated member, [redacted], who is also the sole proprietor of the employer corporation. This benefit constitutes prohibited inurement under section 1.501(c)(9)-4(a) of the regulations.

Accordingly, based on all the facts and circumstances, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(9) of the Code. You are, therefore, required to file federal income tax returns.

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 principal officers, must be submitted within 21 days from the date of this letter. You also have a right to a 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 Practice requirements.

If we do not hear from you within 21 days, this ruling will become final and copies of it will be forwarded to the District Director, Cincinnati, Ohio, your key District Director for exempt organization matters.

[redacted]

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

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224
Attn: [redacted]

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

(Signed) [redacted]

[redacted]
Chief, Exempt Organizations
Rulings Branch

cc: [redacted]

[redacted]