



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: 02/18/05

Contact Person:

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Legend:

G =

Dear _____ :

This is in reply to G's request for a ruling that it is excepted from filing annual information returns on Form 990, Return of Organization Exempt from Income Tax, by Revenue Procedure 95-48, 1995-2 C.B. 418.

G is recognized as exempt from federal income tax under section 501(c)(27)(B) of the Code relating to workmen's compensation. G was created by its state government. A majority of G's governing body is appointed by its state governor. G must file a public annual report with its state's insurance commissioner and is subject to audit by that state office. If G is dissolved, its state will determine the disposition of G's assets.

Section 6033(a)(1) of the Code generally requires the filing of annual information returns, such as Form 990, by organizations exempt from federal income tax under section 501(c) of the Code.

Section 6033(a)(2)(B) of the Code and section 1.6033-2(g)(6) of the Income Tax Regulations provide that the Commissioner may relieve any organization or class of organizations from filing, in whole or in part, the annual return required by section 6033 where the Commissioner determines that such returns are not necessary for the efficient administration of the internal revenue laws.

Revenue Procedure 95-48, 1995-2 C.B. 418, provides that an organization is not required to file the annual Form 990 if it meets sections 4.02(b)(i) through (iii) of that Procedure.

First, under section 4.02(b)(i) of the Procedure, the organization must be either operated, supervised, or controlled by governmental units, or by organizations that are affiliates of governmental units, within the meaning of section 1.509(a)-4(g)(1)(i) of the regulations, or the members of the organization's governing body must be elected by the public at large pursuant to local statute or ordinance. Under section 1.509(a)-4(g)(1)(i), there must be a substantial degree of direction over the organization's policies, programs, and activities by one or more publicly supported organizations. The relationship is comparable to that of a parent and a subsidiary, where the subsidiary is under the direction of, and accountable or responsible to, its parent organization. This relationship can be established by the fact that a majority of the officers, directors, or trustees of the organization are appointed or elected by the governing body, members of the governing body, officers acting in their official capacity, or the membership, of one or more publicly supported organizations.

Second, under section 4.02(b)(ii) of the Procedure, the organization must two or more of the following five affiliation factors (a) through (e) of section 4.03 of the Procedure:

(a) The organization was created by one or more governmental units, organizations that are affiliates of governmental units, or public officials acting in their official capacity.

(b) The organization's support is received principally from taxes, tolls, fines, government appropriations, or fees collected pursuant to statutory authority. Amounts received as government grants or other contract payments are not qualifying support under this paragraph.

(c) The organization is financially accountable to one or more governmental units. This factor is present if the organization is: (i) required to report to governmental unit(s), at least annually, information comparable to that required by Form 990; and (ii) is subject to financial audit by the governmental unit(s) to which it reports. A report submitted voluntarily by the organization does not satisfy clause (i). Also, reports and audits pursuant to government grants or other contracts do not alone satisfy this 4.03(c).

(d) One or more governmental units, or organizations that are affiliates of governmental units, exercise control over, or oversee, some or all of the organization's expenditures (although it is not financially accountable to governmental units as described in 4.03(c)).

(e) If the organization is dissolved, its assets will (by reason of a provision in its articles of organization or by operation of law) be distributed to one or more governmental units, or organizations that are affiliates of governmental units within the meaning of this Procedure.

Third, under section 4.02(b)(iii) of the Procedure, the organization's filing of Form 990 is not otherwise necessary to the efficient administration of the internal revenue laws.

In this case, under section 4.03(b)(i) of the Procedure, G meets section 509(a)(3)-4(g)(1)(i) of the regulations because G has a majority of the persons on its governing body appointed by a state government. Under section 4.03(b)(ii), G meets two or more of the section 4.03 factors, namely at least (a) and (c). Under section 4.03(b)(iii), given that G files annual public information with its state insurance commissioner, G's filing of a Form 990 is not otherwise necessary to administration of the internal revenue laws.

Accordingly, based on the information submitted, we rule that you, G, have met the requirements of section 4.02(b) of Revenue Procedure 95-48, 1995-2 C.B. 418, and, thus, filing of Form 990 is not required.

No opinion is expressed regarding whether you have unrelated business taxable income under section 511 of the Internal Revenue Code and, therefore, must file a Form 990-T return.

Because this ruling could help to resolve any questions, please keep it in your permanent records.

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 as precedent.

Sincerely,

Jane Baniewicz
Manager, Exempt Organizations
Technical Group 2