

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Contact Person: [REDACTED]

Date [REDACTED]

Telephone Number: [REDACTED]

Signature [REDACTED]

In Reference to: [REDACTED]

Date: [REDACTED]

Employer Identification Number: [REDACTED]

Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(15). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

You were incorporated under the laws of [REDACTED] on [REDACTED]. Your purpose as stated in your Articles of Incorporation is "for public benefit and non-profit activities."

You originally indicated that your purpose was to serve the interests of your members by providing insurance coverage for the repatriation of the member's earthly remains in the event the member died while travelling out of the country or otherwise away from their state of residence. Methods of transport would differ under the plan, but would essentially provide for the return of the deceased to their city of residence or other specific location as identified by the beneficiaries.

You stated that as a membership organization, your appeal to the entire public was based upon the eventual need to transport bodily remains, and that the solicitation of dues paying members was designed to enrol a substantial number of persons in the community needing such services. Dues were designed and intended to make membership available to a broad cross-section of the interested public and were not designed or intended to limit membership to a specific group. You say that your activities were intended to and did appeal to a broad cross-section of persons with an interest in this area and related transportation issues.

You indicated that your services were meant to be those of a [REDACTED] designed to provide such insurance services and policies at or near cost and that over [REDACTED] of your support would come from membership dues and profits.

[REDACTED]

In your letter responding to our request for supplemental information, you stated that "[REDACTED] is not an [REDACTED] that requires authority to do business." You also stated that [REDACTED]

Supplemental information brochures included with your response indicate that you will provide extensive worldwide travel-related emergency services to your members. These services include: Legal Services such as legal referrals, bail advances, and legal assistance; Personal Services such as emergency message relay, emergency travel accommodation and transportation arrangements, cash advances, translator and interpreter referrals. You will also provide Information Services including visa, passport and immunization requirements, cultural information, embassy and consular referrals, and U.S. State Department travel advisories. Repatriation of mortal remains is among the many travel-related services that you will provide.

You will provide this assistance to your members through your assistance centers in over [REDACTED] countries. The brochures state that [REDACTED]

You will also provide your members with Accidental Death and Dismemberment Coverage [REDACTED] hours a day, 3 [REDACTED] days a year, worldwide on or off the job. The hazards apply to injuries occurring anywhere on land or water, including private passenger automobiles and air travel as a passenger in any civilian aircraft. These benefits are provided by contract with the [REDACTED]

These brochures also state that [REDACTED] and is not an insurance company.

Section 501(c)(15) of the Code provides that insurance companies or associations other than life, are exempt from taxation under section 501(a) if net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed \$ [REDACTED]

The principal test for what constitutes "insurance" for federal income tax purposes is set out in Helvering v. Le Gierse, 312 U.S. 531 (1941). In that case, the Supreme Court stated that "[h]istorically and commonly, insurance involves risk-shifting

[REDACTED]

and risk-distributing." Id. at 539. Further, the Court stated this risk must be an "insurance risk" as opposed to an "investment risk." Id. at 542. In Allied Fidelity Corp. v. Commissioner, 66 T.C. 1068, 1074 (1976), aff'g, 572 F.2d 1190 (7th Cir. 1978), the Tax Court wrote that this risk is a risk of "a direct or indirect economic loss arising from a defined contingency," so that an "essential feature of insurance is the assumption of another risk of economic loss."

Section 513 of the Code defines "unrelated trade or business" as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational or other purpose or function constituting the basis for its exemption under section 501, with certain exceptions not here relevant. It further provides that the term "trade or business" has the same meaning it has in section 162, and generally includes any activity carried on for the production of income from the sale of goods or the performance of services.

Section 1.513-1(b) of the Income Tax Regulations provides that the term "trade or business" has the same meaning it has in section 162, and generally includes any activity carried on for the production of income from the sale of goods or performance of services. It is further provided that activities of producing or distributing goods or performing services from which a particular amount of gross income is derived do not lose identity as trade or business merely because they are carried on within a larger complex of other endeavors which may, or may not be related to the exempt purpose of the organization.

Your primary activity is an activity carried on for the production of income [REDACTED].

[REDACTED]. You have failed to distinguish this activity from that of a proprietary travel-related services provider, or to establish that this activity is substantially related to any exempt purpose described in section 501(a).

You are not an insurance company since your activities do not include "risk shifting", or "risk distribution" as discussed in Helvering v. Le Gierse, supra.

While you state that you are a membership organization, the monies received from your "members" are listed as "sales revenues" generated from "contract sales." These revenues are

[REDACTED]

neither membership dues nor insurance premiums but gross receipts from a trade or business that is unrelated to any exempt purpose.

We conclude, therefore, that, because you are not an insurance company described in section 501(c)(15) of the Code, we can not recognize you as exempt under that section. Accordingly, you must 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 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.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key district office. Thereafter, any questions about your federal income tax status 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:

[REDACTED]

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

Sincerely,

[REDACTED]

[REDACTED]