

NO PROTEST RECEIVED
Release copies to District

Date: [REDACTED]
Surname: [REDACTED]

[REDACTED]

[REDACTED]

Employer Identification Number: [REDACTED]
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(8) of the Internal Revenue Code. For the reasons stated below, we conclude that you do not qualify for tax exemption under this section. Your protest rights are also explained below.

You were incorporated on [REDACTED], pursuant to the [REDACTED] Non-Profit Corporation Act. Article Four of the incorporating instrument states that your purpose is to "transact any and all lawful business" which is permissible under the cited [REDACTED] statute.

In response to Part II, 12 of Form 1024, exemption application, you state that you provide accident medical insurance and Accidental Death & Dismemberment ("AD&D") insurance coverage for your members. This coverage is provided through a group policy wherein you are the policyholder and your members are the beneficiaries. You have attached a copy of the policy to your application. The insurer is [REDACTED] of [REDACTED].

Under Part II, 2 of Form 1024, you state that your largest source of income is from "membership dues paid by members receiving benefits or by those members' employers." These amounts are reported in Part III, Financial Data, as follows: [REDACTED]: \$ [REDACTED]; [REDACTED]: \$ [REDACTED]; [REDACTED]: \$ [REDACTED]; and [REDACTED] (through [REDACTED], [REDACTED]): \$ [REDACTED]. These amounts account for virtually your entire income in the years noted. On Line 9, you attribute most of your expenses to "activities related to the organization's exempt purposes." In [REDACTED], the amount reported on Line 9 was identical to that reported on Line 1 for membership dues and in the subsequent years the amounts reported on Line 9 are very close to those reported on Line 1. The "membership dues" are in actuality used to pay for the insurance coverage

provided under the policy. In effect, you function as a pass-through for the payment of the premiums.

Under Part II, 7, dealing with qualifications for membership, you state that a person must be a citizen or legal resident of the United States. You have two classes of membership: Provider Members and Benefit Members. You represent that the Provider Members provide services at a lower cost than what a nonmember might otherwise have to pay.

There are no provisions in your articles or bylaws, nor is there any other evidence in your exemption application, to indicate that you are operating under the lodge system, i.e., a form of organization that "comprises local branches chartered by a parent organization and largely self-governing" (quoting from the regulations under Code section 501(c)(9)).

Section 501(c)(8) of the Code provides for the exemption from federal income tax of fraternal beneficiary societies, orders, or associations --

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

Section 1.501(c)(8)-1(a) of the Income Tax Regulations states that a fraternal beneficiary society is exempt from tax only if operated under the "lodge system" or for the exclusive benefit of the members so operating. "Operating under the lodge system" means carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like. It is also necessary for the society to have an established system for the payment to its members or their dependents of life, sick, accident, or other benefits.

The Service has interpreted the above regulations to mean that an organization is operating under the lodge system only when the parent and local organizations are active. Thus, the mere provision in the creating instrument and by-laws for such bodies is not enough.

Historically, fraternal beneficiary societies arose as a type of mutual benefit organization. The benefits they provided were not provided through insurance but through the available resources of the particular group. However, as insurance became more common, fraternal societies were among the first groups to offer life insurance. Nevertheless, these societies were considered to be more than just insurance companies and their insurance aspects were viewed as being only incidental to their fraternal and charitable purposes.

Fraternal beneficiary societies generally are secret societies which have a set of secret rites and rituals. They engage in numerous activities of a social, educational, and charitable nature. The only activities required in order to qualify for exemption under section 501(c)(8) of the Code is that the organization actually operate under the lodge system, and that it either provides for the payment of life, sick, accident or other benefits, or that it establishes a separate 501(c)(8) entity which provides such benefits only for members of the organization.

Aside from the above organizational structure and insurance activities, a section 501(c)(8) organization must have a fraternal element - a common bond - among its members. The requirement of a fraternal element was set forth in Philadelphia and Reading Relief Association, 4 B.T. A. 713 (1926). The court held that when individuals join an organization solely to receive insurance benefits, and there are no lodges, rituals, ceremonies or regalia, then no fraternal element is present. The court cited cases where the terms "fraternal" and "fraternal beneficial societies" were considered. One such case was National Union v. Marlow, 74 F. 775 (8th Cir. 1896), wherein the court defined a fraternal beneficial society as follows:

...one whose members have adopted the same or very similar, calling, avocation, or profession, or who are working in unison to accomplish some worthy object, and who for that reason have banded themselves together as an association or society to aid and assist one another, and to promote the common cause. The term 'fraternal' can properly be applied to such an association, for the reason that the pursuit of a common object, calling, or profession usually has a tendency to create a brotherly feeling among those who are thus engaged... . Many of these associations make a practice of assisting their sick and disabled members, and of extending substantial aid to the families of deceased

members. Their work is at the same time of a beneficial and fraternal character, because they aim to improve the condition of a class of persons who are engaged in a common pursuit, and to unite them by a stronger bond of sympathy and interest... .

Another case, Polish Army Veterans Post 147, 24 T.C. 891 (1955), aff'd 236. F. 2d 509 (3rd Cir. 1956) stands for the proposition that an organization will not be classified as "fraternal" in nature where the only common bond among the majority of its members is the fact of membership in the organization.

Rev. Rul. 73-165, 1973-1 C.B. 224 discusses the necessary ratio of fraternal activity to beneficial activity required for an organization to qualify for exemption under section 501(c)(8) of the Code. It concludes that there is no requirement that either feature dominates so long as both are present to a substantial degree and neither is a sham.

With respect to your own application, there is nothing in your articles or by-laws which makes reference to a lodge system, and, in fact, you do not operate under a system consisting of a parent or central organization and lodges, chapters, or the like which are chartered by the parent entity but largely self-governing. Instead, you function primarily as an insurance broker; through membership in your organization, your members are able to obtain accident medical insurance and AD&D insurance through a group policy in which you are the policyholder and your members are the beneficiaries. Aside from this insurance aspect, your operations have none of the indicia of a fraternal beneficiary society described in section 501(c)(8) of the Code. Aside from not operating under the lodge system, there is no evidence that your members engage in a set of secret rites and rituals which typify such societies nor does it appear that your members share any common bond aside from their participation in the group insurance policy. Thus, the required fraternal aspect of such societies is completely missing from your organization. See Rev. Rul. 73-165, cited above.

Based on the foregoing, we hold that you do not qualify for exemption from federal income tax as an organization described in section 501(c)(8) of the Code. Accordingly, you are required to file federal income tax returns on Form 1041.

You have a right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your

