

Internal Revenue Service
Appeals Office

Release Number: 201015043
Release Date: 4/16/10

Date: **JAN 20 2010**

UIL: 501.15-00

A =
B =
C =

Department of the Treasury

Employer Identification No.:

D

Person to Contact:

Employee ID Number:

Tel:

Fax:

Form Required to be Filed:

1120PC

Tax Years:

**Last Day to File a Petition with the
United States Tax Court:**

APR 20 2010

LEGEND:

A =

B =

C =

D =

E =

Certified Mail

Dear Sir or Madam:

This is a final adverse determination as to your exempt status under the provisions of section 501(a) as an organization described in section 501(c)(15) of the Internal Revenue Code (IRC) for all years beginning on or after

Our adverse determination was made for the following reason(s):

You voluntarily began considering yourself as taxable in 2004 and have filed Forms 1120PC for tax years beginning on or after

You are required to file Federal income tax returns on the form indicated above for tax years beginning on or after . You should file these returns within 30 days from the date of this letter if you have not already done so, unless a request for an extension of time is granted. File the returns in accordance with their instructions, and do not send them to this office. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217.

We will notify the appropriate State officials of this action, as required by Code section 6104(c). You should contact your state officials if you have any questions about how this determination may affect your state responsibilities and requirements.

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

Sincerely,

Appeals Team Manager

cc: E

Internal Revenue Service
Appeals Office

Department of the Treasury

Date: **JAN 20 2010**

Employer Identification Number:

D

Person to Contact:

UIL: 501-15.00

Employee ID Number:

Tel:

Fax:

A
B
C

Years:

LEGEND:

A =

B =

C =

D =

E =

Dear

We considered your appeal of the adverse action proposed by the Director, Exempt Organizations, Rulings and Agreements. The paragraph(s) check below indicate(s) our decision.

Your exemption from Federal income tax under section 501(c)(15) of the Internal Revenue Code is:

Confirmed.

Modified. A new determination letter is enclosed revoking your organization's tax exempt status for all years beginning on or after January 1, 2004.

Denied or Revoked. You are required to file Federal income tax returns on Form 990 for the above years. You should file these returns within 30 days from the date of this letter, unless a request for extension of time is granted. File the returns in accordance with their instructions and do not send them to this office.

You are not a private foundation because you are described in Code section(s) _____.

You are an operating foundation as described in Code section 4942(j)(3).

You have no liability for excise taxes under IRC _____ for the above years.

Your liability for excise taxes under IRC _____ for the above year(s) was properly reported on your return(s).

There is no change to your unrelated business income tax liability as reported for the above years.

Your Form(s) 990-T for the above years are accepted as filed.

You may direct questions about the decision to the appeals officer whose name and telephone number are shown above.

Sincerely,

Charles F. Fisher,
Appeals Team Manager

cc: E

Explanation of Items

Name of Taxpayer

A

Year/Period Ended

Year 1, Year 2, Year 3

ISSUE

1. Does A. (A) qualify for exemption from Federal tax as an organization described in Internal Revenue Code (IRC) Section 501(c)(15), for taxable years Year 1, Year 2 and Year 3?

FACTS:

A. ("A") was organized in First year in the Location 1, under the name of C., ("C"). In First year A redomesticated in the Location 2. At that time they changed their name to A.

According to the Form 990 filed for Year 1, the sole shareholder of A is the Trust 1. According to the minutes of the meetings for Year 1 and beyond, the Trust 1 has 904 shares while Trustee 1's daughters, Trustees 1, 2, and 3 each have 32 shares.

According to the Articles of Incorporation dated Prior year 2 one of the objectives of A is, "to undertake and to carry on the business of all kinds of insurance business and all kinds of guarantee, re-insurance, counter-insurance and indemnity business, and in particular, without prejudice to the generality of the foregoing, land, title, marine, fire, aircraft, accident, third party, burglary, robbery, theft, comprehensive, employer's liability, workman's compensation, guarantee, disease, sickness, survivorship, failure of issue, life, key-man, storm, war, strike, riot, vehicle insurance, mortgage and other investment insurance or any of them, and to transact any and all other kinds of insurances, re-insurances, co-insurances, counter-insurances, and to carry on all or any other class of the insurance or assurance business; to issue policies and charge and accept premiums thereon and to do and perform any other acts necessary thereto for the Company's account or for third parties."

Another objective that can be found in the Articles of Incorporation of Prior year 1 is "to act as broker or agent for insurance reinsurance guarantee and indemnity companies in soliciting and receiving applications for fire, casualty, plate glass, boilers, elevator, accident, health, burglary, rent, marine, credit and life insurance, and all other kinds, of insurance or reinsurance, the collection of premiums and doing such other business as may be delegated to agents or brokers by such companies, and to conduct a general insurance and reinsurance brokerage business and financial business and as agent for the issue of any bills, bonds, shares, debentures or debenture stock, whether or not offered to the public for subscription and to guarantee the subscription of any such securities or shares."

The representative for A stated that the organization has operated as an organization electing to be treated as a U.S. taxpayer under section 953(d) of the Internal Revenue Code. According to

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. of Exhibit
Explanation of Items		
Name of Taxpayer A		Year/Period Ended Year 1, Year 2, Year 3

the Service's records, no documentation was found for an election under Internal Revenue Code Section 953(d). A copy of the election was requested from A in Information Document Requests (IDRs) # 1, #2 & #3. The organization has been unable to produce a copy of such election.

In Prior year 3 the organization filed Application for Recognition of Exemption Under Section 501(a). Form 1024, seeking exemption under Internal Revenue Code Section 501(c)(15). The exempt purpose stated on the application form was the sale of property and casualty insurance. Correspondence was exchanged between the Service and A; however a determination letter was never issued. A failed to establish exemption because they did not respond to an information request. A has been holding itself out as meeting the requirements under the law of I.R.C. 501(c)(15). They self-declared as a small insurance company under section 501(c)(15) by filing Form 990.

In response to Question # 2 of IDR #2, requesting a detailed explanation on why this organization was created, A stated that it was created to reinsure credit life insurance, credit disability insurance, credit property insurance and involuntary unemployment insurance. In response to Question #3 of IDR #2, requesting a detailed explanation on how this organization is operating today, A stated that the current activities are limited to assumption insurance. They reinsure credit life insurance, credit disability insurance, credit property insurance and involuntary unemployment insurance. A does not write any business directly nor does it cede any business.

The insurance policies are sold through D ("D"). Net premiums written through D are remitted to the direct writers. The direct writers withhold their fees and premium taxes, and submit the net amount to A.

D is a lending institution. D is chartered by the Office of Commissioner of Banks for the State of . It is licensed under the Location 3 Consumer Finance Act- Location 3 General Statute Chapter 53, Article 15. D Finance is audited annually by the Commissioner of Banks of Location 3.

D provides loans to individuals for debt consolidation, vacations, automobiles, appliances, etc. Insurance is sold to these individuals upon securing their loan. Individuals must be under 65 years of age and employed full time. The policies are sold by one of the loan officers. The insurance is a single premium product, the amount added to the proceeds of the loans and financed over the term of the loans.

A entered into a Reinsurance Agreement with E. ("E") on September 1, First year. The Agreement states, in part, "E hereby cedes and C hereby accepts 100% of E's life and monthly benefit liability on any one life and credit property and vendors single interest (VSI) insurance written or assumed by E on and after the effective date of this Agreement." It further states, in part, "As reinsurance premium for said insurance, E shall pay C an amount equal to the gross premiums received for said insurances less return premiums, thereon. C shall allow E a ceding

Explanation of Items

Name of Taxpayer

A

Year/Period Ended

Year 1, Year 2, Year 3

commission equal to the sum of (1) 10% of the excess of the gross premiums over the return premiums on said insurances, and (2) the sum of all commissions paid or allowed by E on said insurances, and (3) the sum of all taxes incurred by E on said insurances.”

E is owned by F (F). F also owns G (G) and H (H). G issues credit life and credit disability insurance coverage. H issues credit property and involuntary unemployment insurance coverage.

The responsibility for paying any claims that are filed is with F. A is responsible for reimbursing F for these claims.

In response to Question #6 of IDR #7, two additional reinsurance agreements were signed in Year 3. One agreement is with I, dated August 1, Year 3. coinsurance on Credit Life and Credit Accident and Health. Ceding fee is Commission to D Finance for both Life and A&H is . The other reinsurance agreement is with J, also signed on August 1, Year 3, coinsurance on Credit Property. Ceding fee is on Property, Non File and Collateral. There is a ceding fee on IUI. D receives a commission on Property, IUI and Collateral of No commission received on Non File.

The responsibility for paying any claims that are filed is with I and J. A is responsible for reimbursing the companies for these claims.

A breakdown of the organizations that Trustee 1 and his daughters are associated with can be found in Exhibit A.

On Year 1, Year 2 & Year 3, Total Assets maintained by A was and respectively. Of these amounts, and respectively were in the form of Notes Receivable. A breakdown of these receivables is shown in Exhibit B.

According to the Services records, A filed Forms 990 for years ending December 31, prior year 2, ear 3, & Year 3. For Year 3 through no Forms 990 or any other forms were filed. Upon redomesticating in prior year A started filing the Form 990 yearly. In response to IDR #8, the organization did provide copies of Forms 990 for prior year 5 and prior year 6.

In IDR #2 and #7, agent requested copies of Forms 990 for years ending Year 2 & Year 3. Exhibit C provides a breakdown of the Forms 990 for Year 1, Year 2 and Year 3.

A comparison of premiums to total revenue can be found in Exhibit D. As can be seen by Exhibit D, a majority of its income each year was from its investments and notes/loans outstanding not from premiums. At no time since the year Year 1 has A received more premium income than investment and notes/loans income.

E xplanation of Items

Name of Taxpayer

Year/Period Ended

A

Year 1, Year 2, Year 3

A did not maintain any employees, a sales or clerical staff, brokers or agents. No compensation was paid to anyone for their services. Expenses incurred included claim benefits, increase in reserves, commissions to H, taxes, licenses and fees.

In response to Question #8 of IDR #7, there are no promotional and marketing materials used by D and A to promote the policy(s). The promotional and marketing materials used by H are unknown.

TAXPAYER'S POSITION

See attached for Taxpayer's position.

LAW AND ANALYSIS

- I. Is A an Insurance Company Exempt From Tax Pursuant to I.R.C. Section 501(c)(15) for the Taxable Years Year 1, Year 2 and Year 3?

The first issue is whether A is an insurance company exempt from tax pursuant to I.R.C. section 501(c)(15) for the taxable years Year 1, Year 2 and Year 3. I.R.C. section 501 provides that certain entities are exempt from taxation. Included in these entities are "[i]nsurance companies or associations other than life (including interinsurers and reciprocal underwriters) if the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed \$350,000." I.R.C. section 501(c)(15)(A)¹.

- a. Definition of an Insurance Company.

Neither I.R.C. 501(c)(15) nor its corresponding regulations define an "insurance company." Subchapter L of the Code (I.R.C. sections 801-848), however, addresses the taxation of insurance companies. The term "insurance company" has the same meaning under section 501(c)(15) as it

* * * *

¹ If an entity is part of a consolidated group, all net written premiums (or direct written premiums) of the members of the group are aggregated to determine whether the insurance company meets the requirements of I.R.C. section 501(c)(15)(A), I.R.C. 501(c)(15)(B). In this case, there are no other premiums to aggregate with the premiums A received during Year 1, 2001 and 2002 pursuant to I.R.C. 501(c)(15)(B).

Explanation of Items

Name of Taxpayer

Year/Period Ended

A

Year 1, Year 2, Year 3

does in Subchapter L. See H. Conf. Rep. No. 99-841, 99th Cong., 2nd Sess. (Vol. II) 370-71, reprinted in 1986-3 (Vol. 4) C.B. 370-71.

I.R.C. section 816 (formally I.R.C. section 801) defines a life insurance company. As part of this definition, I.R.C. section 816 provides, "the term 'insurance company' means any company more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies."

Treas. Reg. section 1.801-3(a)(1) defines an insurance company as.

A company whose primary and predominant business activity during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies. Thus, though its name, charter powers, and subjection to State insurance laws are significant in determining the business which a company is authorized and intends to carry on, it is the character of the business actually done in the taxable year which determines whether a company is taxable as an insurance company under the Internal Revenue Code.

Treas. Reg. section 1.801-3(a)(1)(emphasis added). See also Bowers v. Lawyers Mortgage Co., 285 U.S. 182 (1932).

The Internal Revenue Service has not ruled on whether the more stringent "greater than half" test set forth in I.R.C. 816 applies to an insurance company other than a life insurance company. Instead, to determine whether a non-life insurance company qualifies as an insurance company for tax purposes, the "primary and predominant business activity" test set forth in Treas. Reg. 1.801-3(a)(1) applies. See Rev. Rul. 68-27, 1968-1 C.B. 315.

The courts and the IRS have also, at times, looked to whether the transaction has characteristics traditionally associated with insurance, and whether the company conducts business like an insurance company. In order for A to be considered an "insurance company" entitled to tax exempt status under I.R.C. 501(c)(15) for the taxable years Year 1, Year 2 and Year 3, its primary and predominant business activity during those years must have been issuing insurance contracts or reinsuring insurance risks. See I.R.C. section 816; Treas. Reg. section 1.801-3(a)(1).

Several court cases have addressed the issue of whether a company qualifies as an insurance company based on the company's primary and predominant business activity. The seminal case addressing this issue is Bowers v. Layers Mortgage Co., 285 U.S. 182 (1932). In Bowers, the Supreme Court determined that the taxpayer was primarily engaged in "the lending of money on real-estate security, the sale of bonds and mortgages given by borrowers and use of the money received from purchasers to make additional loans similarly secured." Bowers, 285 U.S. at 188-89. Although the taxpayer in Bowers earned "premiums" that amounted to approximately one-third of its income for the taxable years at issue, these premiums were attributable to the excess of the interest paid to the taxpayer by borrowers over the amount the taxpayer paid the purchasers

Form: 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer A		Year/Period Ended Year 1, Year 2, Year 3

to whom it subsequently sold bonds and mortgages. Id. at 188 n.5. The premiums also included fees the taxpayer charged for guaranteeing mortgage loans which it did not make or sell. Id. at 186. The Court noted that the “premiums” the taxpayer earned included agency and other services provided by the taxpayer which were not generally provided under traditional insurance contracts. Id. at 189.

Because the taxpayer’s premium income was incidental to its business of lending money, the Bowers Court held that the taxpayer was not an insurance company for tax purposes. Id. at 190. the Court explained, “[t]he lending fees, extension fees and accrued interest appertain to the business of lending money rather than to insurance, and may not reasonably be attributed to the subordinate element of guaranty in [taxpayer’s] mortgage loan business.” Id. at 189. Cf. United States v. Home Title Insurance Co., 285 U.S. 191 (1932) (holding that the taxpayer was insurance company where taxpayer derived over 75% of its income from the insurance of titles and guarantees of mortgages.

In Inter-American Life Ins. Co. v. Commissioner, 56 T.C. 497 (1971), aff’d per curiam, 469 F.2nd 697 (9th Cir. 1972), the taxpayer issued and reinsured 17, 280, 325 and 424 insurance policies earning premiums of \$867.94, \$1,554.76, \$1,125.70, and \$1,421.98 during the taxable years 1958, 1959, 1960, and 1961 respectively. Inter-American, 56 T.C. at 507. Virtually all of the reinsurance contracts issued by the taxpayer came from another insurance company which was owned by the same two shareholders as the taxpayer. Id. Similarly, almost all of the directly written insurance policies issued by the taxpayer were issued to the same two shareholders of the taxpayer. Id. The taxpayer also engaged in the sale of real estate and stock, earned investment income totaling \$35,988.21, \$31,195.60, \$36,436.04, and \$33,815.44 over the four years at issue. Id.

In Inter-American, the Tax Court compared the taxpayer’s income from other activities, and held that the taxpayer was not an insurance company. According to the Tax Court, the insurance premiums the taxpayer earned were de minimis, comprising less than 15% of the taxpayer’s gross investment income. Id. In addition, the taxpayer had no sales force in place to sell insurance contracts. Id. The Tax Court concluded that, because the taxpayer’s primary and predominant source of income was from its investments, and because the taxpayer did not focus its primary and predominant efforts in pursuit of its insurance business, it was not an insurance company. Id. at 508.

The Tax Court also acknowledged that it was cognizant of the “problems indigenous to new life insurance companies, in particular, that the initial years of a new life insurance company’s operations are generally difficult because the initial expenses incurred in ‘putting policies on the book’ are greater than the premium received” Id. (citing S. Rept. No. 291, 86th Cong., 1st Sess. (1959), 1959-2 C.B. 779). The Court explained, however, that it was basing its decision on the fact that the taxpayer did not focus its “capital and efforts primarily” on its insurance business.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer A		Year/Period Ended Year 1, Year 2, Year 3

not on the fact that the taxpayer's insurance business was not profitable. Id. (citing Cardinal Life Ins. Co. v. United States, 300 F. supp. 387 (N.D. Tex. 1969))

In Cardinal Life Ins. Co. v. United States, 300 F. Supp. 387 (N.D. Tex. 1969), rev'd on other grounds, 425 F.2d 1328 (5th Cir. 1970), the taxpayer earned no income from insurance in two of the five years under examination, and earned .66%, .87% and 9.11% of its total income from insurance during the remaining three taxable years at issue. Cardinal Life, 300 F. supp. at 389. Instead, the taxpayer earned a majority of its income from dividends, interest, rent and capital gains. Id. Like Inter-American, the taxpayer in Cardinal Life failed to employ any brokers, solicitors, agents or salesmen. Id. It did, however pay an actuary on a fee basis to determine the amount of its premiums. Id. The Court noted that the taxpayer's income from insurance policies was "insignificant" compared to the total income earned by the taxpayer, explaining,

While Plaintiff's insurance activities were insignificant, it was generating substantial income from dividends on stocks, rental income on real estate, rental income on trailers, interest income and capital gains upon disposal of real estate and stocks. These types of income constitute... personal holding company income which Congress has specifically stated is subject to a tax in addition to ordinary income tax. The Plaintiff is seeking to remove itself from the grasp of the personal holding company provisions by claiming life insurance company status through the issuance of a small and insignificant amount of insurance contracts.

Id. at 382.

In Industrial Life Ins. Co. v. United States, 344 F. Supp. 870 (D.S.C. 1972), aff'd per curiam, 481 F.2d 609 (4th Cir. 1973), the Fourth Circuit rejected the taxpayer's claim that it was an insurance company where the taxpayer earned 20% of its income from selling credit life insurance and issuing life insurance policies to its officers, and the balance of its income from its investment portfolio and the sale and leasing of real estate. The court explained,

It is obvious from the financial information ... that the premium income from these years was small when compared with the income from real estate, mortgages and investment.

It is also important to note that more than half of the premium income came from policies on the lives of the only officers and stockholders of the company.

Id. at 876. The Court likened the facts of Industrial Life to those of Cardinal Life. Id.

By contrast, in Service Life Ins. Co. v. United States, 189 F. supp. 282 (D. Neb. 1960), aff'd on other grounds, 293 F.2d 78 (8th Cir. 1961), the Court held that the taxpayer was an insurance company where it had "over \$22,000,000 worth of life insurance on its books: over 70,000 individual policies in force; and approximately \$1,675,000 in premium income" over a four year

Explanation of Items

Name of Taxpayer

Year/Period Ended

A

Year 1, Year 2, Year 3

period. Id. at 286. The Service Life Court acknowledged that whether a company is considered an insurance company turns on the character of the business conducted by the company, not any percentage of income. Id. at 285-86. The Court did however, compare the taxpayer's premium income to its investment income to determine the business activity of the taxpayer. Id. at 286. Although the taxpayer also generated income from mortgage loans and investments, over half of the taxpayer's income was from its insurance premiums, and over half of its income producing assets were held for insurance policy reserves. Id.

i. A Earned a Substantial Amount of its Income During Year 1, Year 2 and Year 3 from its Lending of Money

A should not be classified as an insurance company for tax purposes because its primary and predominant business activity during the taxable years Year 1, Year 2 and Year 3 was lending of money. While most insurance companies invest in stocks, bonds, and other investments, they normally don't invest in loans to families and friends.

A has been quite active in the lending of money. Total Assets reported, on Forms 990 for Year 1, Year 2 and Year 3 was \$3,234,687, \$3,654,019 and \$4,239,345 respectively. Of the Total Assets reported, \$2,625,377; \$2,729,417 and \$3,210,616 respectively were reported as notes and loans receivable. As Exhibit B shows, there have been many loans issued since 1994. Some of the loans were made to Trustee 1, his family members, their businesses, D Finance and other individuals and businesses. Various interest rates were charged with some having a zero percent rate. The loans were made for equipment, vehicles, deeds of trust, and dealer inventory.

As stated in response to Question #9 of IDR # 2, "Any member of the public qualifies to borrow money, but the decision to lend the money to an individual or a corporation depends on the risk involved, the rate of return, and the security. The loans are both installment loans and demand notes, and all pay principal and interest on a regular basis. Collateral for these loans includes inventory, deeds of trust on real property (mortgages) and/or personal guarantees. The interest rate, payment schedule, and acceptable collateral for these loans are determined by Trustee 1 and are subject to negotiation with the borrowers." The reason for making these loans, as stated in the response to Question #9 of IDR #2 was to increase the yield on invested assets of A.

It can be argued that many of the loans made by A were not made to increase the yield of invested assets because there was no interest rate charged. As the Exhibit B shows, many loans had a zero percent interest rate. Not only does this not increase the yield of invested assets, it can be considered not prudent investing. These loans were made for the benefit of the individuals receiving the loans, not for A benefit.

During this same time frame, the only insurance activity was the receipt of checks from E. No policies were issued directly by A and no new reinsurance agreements were signed until the latter part of Year 3. There were some claims paid as indicated on Forms 990. For Year 1, Year 2 and

Explanation of Items

Name of Taxpayer

A

Year/Period Ended

Year 1, Year 2, Year 3

Year 3 the amounts were. \$19,899, \$16,372 and \$850 respectively. These amounts resulted in either checks being written to E, or the amounts being deducted from the premiums prior to being transferred to A. Very little insurance activity was conducted over the years.

ii. A Failed to Use its Capital and Efforts Primarily to Earn Income from its Insurance Activity.

In addition to focusing on the sources of a company's income to determine if the company qualifies as an insurance company for tax purposes, courts have also considered the manner in which the company conducts its business activities. A taxpayer "must use its capital and efforts primarily in earning income from the issuance of contracts of insurance." Cardinal Life, 300 F. Supp. at 391.

During Year 1, Year 2 and Year 3, A purported to operate as an insurance company. Based on the following, however, A has failed to demonstrate that it concentrated its capital and efforts primarily on its insurance business: 1) A was extremely overcapitalized; 2) A devoted little time to developing and marketing its insurance products; 3) A did not employ anyone to solicit insurance business; 4) A devoted little time to its insurance activities, and 5) A invested its income in non-liquid assets.

First, relying on Bowers, A asserts that it held passive investments to secure the risks it undertook through its insurance activities. Some investment income is undoubtedly required to support a company's insurance activities. See Bowers, 285 U.S. at 189 (explaining, "'premiums' are characteristic of the business of insurance, and the creation of 'investment income'; is generally, if not necessarily, essential to it."). In fact, one would expect an insurance company to have investment income attributable to investing its premiums while awaiting claims submitted by its policyholders.

The issue is how much investment income did A require to support the risk it assumed by entering into the reinsurance agreement. A held passive investments worth approximately \$3.7 million to cover anticipated insurance claims. A stated in response to Question #11 of IDR #2 that the remaining amount of exposure at the end of Year 2 was \$3,741,821. This was considered the maximum amount of exposure if all policies were to file claims at the same time. If we were to consider the maximum amount of exposure as the amount needed to be maintained, then A would not be overcapitalized. However, the maximum exposure amount did not take into consideration the "Law of Large Numbers". The possibility of all policies filing claims at the same time diminishes as more and more policies are issued. Only a fraction of the policies outstanding might file claims at the same time. Therefore, the total amount of assets needed to cover claims filed would be less than the maximum exposure of all policies.

Explanation of Items

Exhibit

Name of Taxpayer

Year/Period Ended

A

Year 1, Year 2, Year 3

A also stated in response to Question #11 of IDR #2. "A strong asset position (even 20 times liabilities) satisfies the long standing general insurance industry policy and state public policy and law requirements to require higher capitalization for insurance companies. The purpose of these capitalization requirements is to obtain a higher degree of safety and financial stability in the formation and management of insurance companies than is prevalent among non-insurance companies generally. This is to protect the interests of the individual policy owners and the general public by ensuring that claims and other policy benefits will be paid."

Second, A devoted little time to developing and marketing its product. The policies were sold only by D to its clients. No policies were sold to any individual that did not secure a loan from D. There was no other promoting or marketing of the policies by A, D or H. The product was not promoted or marketed to any other organizations. As stated above, there are no promotional and marketing materials used by D and A to promote the policy(s). The promotional and marketing materials used by H are unknown.

Third, A did not employ anyone to solicit its insurance business. In both Cardinal Life and Inter-American Life, where the courts determined that the primary and predominate business of each company was not insurance, neither company employed a sales force. In Cardinal Life, although the taxpayer sold some reinsurance contracts during the years at issue, the District Court noted,

Plaintiff did not have an active sales force soliciting or selling insurance policies. Each of the insurance policies actually written by Plaintiff was as the result of reinsurance agreements wherein other companies ceded to Plaintiff certain amounts of insurance written by them. These reinsurance contracts were negotiated either by the president and sole stockholder of Plaintiff and/or the company's actuary who rendered services to Plaintiff on a fee basis. Plaintiff otherwise did not have any employees, brokers, agents or salesmen soliciting and selling insurance for it, and the only insurance written by Plaintiff was through insurance agreements.

Cardinal Life, 300 F. supp. at 392. Similarly, in Inter-American Life, the Court considered the fact that the taxpayer did not "maintain an active sales staff soliciting or selling insurance policies" during the taxable years at issue as evidence of the taxpayer's "lack of concentrated effort" on the insurance business. Inter-American Life, 56 T.C. 497, 507 (1971).

A signed one reinsurance agreement back in First year. Since the signing of this agreement, there have been no promoting or marketing of the product, other than through D Finance. There are no brokers, agents or sales staff promoting and selling the product. In response to who sells these policies (Question #3 of IDR #2), the policies are sold by the loan officers employed by D. No policies were written directly by A. There was no concentrated effort by A to promote, market or sell its insurance product. Not until the latter part of Year 3 did A sign any more reinsurance agreements.

Explanation of Items

Name of Taxpayer

A

Year/Period Ended

Year 1, Year 2, Year 3

Fourth. A spent an insignificant amount of time on its current insurance business. The only insurance activity conducted by A was the receipt and deposit of checks received from H. An occasional check was written to H for reimbursement of claims. No other insurance activity was conducted. The main activity conducted was the lending of money and maintaining the loans outstanding. As can be seen by Exhibit B, there were loans made over the years. A main activity was maintaining these loans.

Fifth. A invested its income in assets that were not liquid. If A was truly concerned about having to pay out a majority of its assets in claims, they would not have invested a majority of their assets in loans and notes that are considered non-liquid. The assets cannot be easily converted into cash to pay claims. As can be seen in Exhibit E, an average of of its assets was invested in non-liquid assets. Based on the information gathered, A has failed to demonstrate that it concentrated its capital and efforts primarily on its insurance business.

In summary, A's primary and predominant business activity was not its insurance activity. A did not devote its capital and effort primarily to its insurance business. Its main activity has been the lending of money and the maintaining of its assets in loans and notes. In Year 1, Year 2 and Year 3, A maintained a small amount of its capital in liquid assets to pay any claims that might be filed. The income from the liquid and non-liquid assets have continued to grow in a tax exempt entity. A did not employ a sales force, brokers or clerical staff. No promoting or marketing of the product was conducted. Like Cardinal Life, A is seeking to avoid tax by claiming tax exempt small insurance company status through I.R.C. 501(c)(15) based on its insurance activity, which is considered small compared to its business of lending of money.

Neither the Internal Revenue Code nor the Regulations specifically define the term "insurance contract." The courts have generally required that a transaction involve both risk shifting (from the insured's perspective) and risk distribution (from the insurer's perspective) in order to be characterized as insurance. Helvering v. LeGierse, 312 U.S. 531, 539 (1941); Gulf Oil Corp. v. Commissioner, 914 F.2d 396, 411 (3rd Cir. prior year 2).

Risk shifting occurs when a person facing the possibility of a loss transfers some or all of the financial consequences of the loss to the insurer. Rev. Rul. 88-72, 1988-2 C.B. 31, clarified by Rev. Rul. 89-61, First year-1 C.B. 75. The risk transferred pursuant to an insurance contract must be a risk of economic loss. Allied Fidelity Corp. v. Commissioner, 66 T.C. 1068 (1976), aff'd., 572 F.2d 1190 (7th Cir. 1978), cert. denied, 439 U.S. 835 (1978).

Risk distribution refers to the operation of the statistical phenomenon known as the "the law of large numbers." When additional statistically independent risk exposure units are insured, although the potential total losses increase, there is also an increase in the predictability of average loss. This increase in the predictability of the average loss decreases the amount of the capital that an insurance company needs per risk unit to remain at a given solvency level. See Rev. Rul. 89-61, First year-1 C.B. 75.

Explanation of Items

Name of Taxpayer

Year/Period Ended

A

Year 1, Year 2, Year 3

With respect to the policies issued by D in Year 1, Year 2 and Year 3, and reinsured by A, it appears that the policyholders shifted their risk associated with their policies, ultimately to A. The loss these policyholders potentially faced was transferred first to H, then to A. The risk did not shift from the parent to its subsidiary, similar to a captive, but from independent individuals, each insuring their risks independently of each other. If one or more of these individuals suffered a loss, A would be liable for the claims filed thereby resulting in a loss for A.

The Courts have not spent a great deal of time explaining what they mean by risk distribution. No court has squarely held that there can be no risk distribution if there is only one, or a few, insureds. A fair reading of the court opinions addressing the issue, however, supports the IRS's position. See Barnes v. United States, 801 F.2d 984, 985 (7th Cir. 1986) ("Risk distributing is the spreading of the risk of loss among the participants in an insurance program."). See also, Commissioner v. Treganowan, 183 F.2d 288, 291 (2nd Cir. 1950). Such spreading is effectuated by pooling among unrelated insureds. "[R]isk distribution means that the party assuming the risk distributes his potential liability, in part, among others." Beech Aircraft Corp. v. United States, 797 F.2d 920, 922 (10th Cir. 1986). Risk distribution is accomplished where the risk is distributed among insureds other than the entity that incurred the loss. See Ross v. Odem, 401 F.2d 464 (5th Cir. 1968).

The Sixth Circuit touched on the issue of risk distribution in Humana, Inc. v. Commissioner, 881 F.2d 247, 257 (6th Cir. First year), noting that there was adequate risk distribution, "where the captive insures several separate corporations within an affiliated group and losses can be spread among the several distinct corporate entities." The Ninth Circuit has also measured risk distribution by explaining, "[i]nsuring many independent risks in return for numerous premiums serves to distribute risk. By assuming numerous relatively small, independent risks that occur randomly over time, the insurer smoothes out losses to match more closely its receipt of premiums." Clougherty Packing Co. v. Commissioner, 811 F.2d 1297, 1300 (9th Cir. 1987)

In summary, A appears to have conducted some insurance business; however, its primary and predominant business activity was the lending of money. More time and effort was spent in the lending of money and maintaining of the notes and loans than was spent on the insurance activities. A issued numerous loans for a variety of reasons. Most of these loans were long term, with payments being received on a regular basis. Trustee 1 was responsible for reviewing the individual's information, setting the amount to be loaned, the interest rate used, payment schedules and acceptable collateral. A significant amount of time and effort was spent regarding issuing and maintaining these loans.

For taxable years prior to 2004, I.R.C. § 501 provides that certain entities are exempt from taxation. Included in these entities are "[i]nsurance companies or associations other than life

Explanation of Items

Exhibit

Name of Taxpayer

Year/Period Ended

A

Year 1, Year 2, Year 3

(including interinsurers and reciprocal underwriters) if the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed \$350,000.” [I.R.C. § 501(c)(15)(A)].

For taxable years beginning after December 31, 2003, section 501(c)(15) (A) provides, in relevant part, for exemption for “insurance companies other than life (including interinsurers and reciprocal underwriters) if (i) (I) the gross receipts for the taxable year do not exceed \$600,000 and (ii) more than 50 percent of such gross receipts consist of premiums.” For purposes of determining gross receipts, the gross receipts of all members of a controlled group of which the company is part are taken into account.

The Joint Committee Report for H.R. 3108 states:

A company that does not meet the definition of an insurance company is not eligible to be exempt from Federal income tax under the provision. For this purpose, the term “insurance company” means any company, more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies (sec. 816(a) and new sec. 831(c). A company whose investment activities outweigh its insurance activities is not considered to be an insurance company for this purpose. See, e.g. *Inter-American Life Insurance Co. v. Commissioner*, 56 T.C. 497, *aff’d per curiam*, 469 F.2d 697 9th Cir. 1972). It is intended that IRS enforcement activities address the misuse of present-law section 501(c)(15).

In a phone conversation with POA 1, on September 18, year 4, followed by a letter received on September 24, year 4, POA 1 indicated that since continuous and uninterrupted filing with each corporate return (with the 953(d) box checked) since prior year 2 of all the information required by such election without objection by the IRS constitutes a valid 953(d) election. Also stated in the phone conversation was that the Service has accepted the returns as filed for many years without question, therefore allowing the organization to be exempt under I.R.C. 501(c)(15).

Notice 89-79, 1989-2, CB 392 states that the process of making the section 953(d) election must be initiated by mailing an original election statement to the Internal Revenue Service. It must be in the form prescribed by the Notice. When the corporation files its annual income tax return, it must attach a copy of the election statement. The election statement must be signed by a responsible corporate officer, within the meaning of section 6062. There is no indication that continuous and uninterrupted filing of the corporate returns constitutes a valid election under section 953(d). There is no box on the Form 990 to check for a section 953(d) election.

Several court cases have addressed positions similar to that taken by POA 1. In the case *Automobile Club of Michigan v. Commissioner of Internal Revenue*, 353 US 180, the IRS determined that the taxpayer was a club that was entitled to be treated as a tax-exempt entity under section 101(9) of the Internal Revenue Code of 1939. The Service notified the taxpayer in

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer A		Year/Period Ended Year 1, Year 2, Year 3

1934 and 1938 that the taxpayer was exempt from federal income tax. In 1945, the Commissioner revoked his prior rulings and retroactively applied the revocation to 1943 and 1944.

According to the case “The [taxpayer] argues that, in light of the 1934 and 1938 rulings, the Commissioner was equitably estopped from applying the revocation retroactively.” According to Ballentine’s Law Dictionary, Equitable estoppel is “A term applied to a situation where, because of something which he has done or omitted to do, a party is denied the right to plead or prove an otherwise important fact. 28 Am J2d Estop § 27. It arises out of the acts and conduct of the party estopped, such being the characteristic which distinguishes it from a technical estoppel by deed, record, or judgment.”

The Supreme Court concluded, “The doctrine of equitable estoppel is not a bar to the correction by the Commissioner of a mistake of law. It’s not clear whether the acceptance of the Form 990 when the entity has not made a valid election is a mistake of law. However, there is precedence for making a change to the taxpayer’s status as a tax-exempt entity.

In the case of Lozoff v. Commissioner, 266 F. Supp. 966, the taxpayers argued that “because the Internal Revenue Service acknowledged and accepted plaintiff’s method of reporting the gain from the 1956 transaction on the installment basis, the defendant is thereby estopped from claiming that the income that is subject of the controversy is not gain from the sale of property. The taxpayer has cited no authority for the proposition that the failure of the defendant to challenge the return for one year precludes it from challenging an incorrect reporting of a similar item in a succeeding year – nor do we know of any such authority.” (Emphasis added)

In case of Massaglia v. Commissioner of Internal Revenue, 286 F2d 258, the Court stated:

The very nature of government operations requires us to apply the principles of estoppel to its conduct with circumspection. ... At the same time, we will not allow the government to deal dishonorably or capriciously with its citizens. ... “The right and wrong of things and equitable principles have a place in tax matters.” *Alamo National Bank v. Commissioner*, 95 F2d 622. These standards of conduct may impose a duty of consistency on the government as well as the taxpayer. ... But, neither the duty of consistency, nor the principles of equitable estoppel bind the Commissioner to unauthorized acts of his agents *Sanders v. Commissioner*, 255 F2d 629, nor preclude him from correcting mistakes of law in the imposition and computation of tax liability, including the power to retroactively correct his rulings, regulations and decisions upon which taxpayers have relied. (Emphasis added, citations omitted)

Tollefsen v. Commissioner, 52 TC 671 was a case where the taxpayer treated withdrawals as loans in 1960 and 1961. The Commissioner audited the 1961 return and reclassified the withdrawals as dividends. According to the case, “Tollefsen argues that since the Commissioner accepted his treatment of the 1960 withdrawals as ‘loans’ the Government

Explanation of Items

Name of Taxpayer

Year/Period Ended

A

Year 1, Year 2, Year 3

is now estopped or otherwise precluded from claiming that the 1961 withdrawals were dividends. We disagree. Regardless of whether the Commissioner had the opportunity to treat the withdrawals in both years in the same manner it is well established that the Commissioner is not subject to any estoppel or similar disability if he does not do so. The mere fact that petitioners may have obtained a windfall in 1960 does not entitle them to like treatment in 1961.” (Citations omitted)

In the case of Rose v. Commissioner, 55 TC 28, the taxpayer asserted that the Commissioner “audited and approved his 1964 income tax return” without making an adjustment to the taxpayer’s use of the installment method. Therefore, the taxpayer concluded, “Respondent is estopped from applying [the installment method] to the installment payments which he received in 1965 and 1966 under the 1964 contract.” The taxpayer did not provide an evidence of an audit or approval of the 1964 return. The court stated, “even if the petitioner had made the requisite pleadings and presented the proof of respondent’s audit and acceptance, respondent would not be estopped from adopting a different position in later year where he had overlooked the taxability of certain payments in previous years.” (Emphasis added, citations omitted)

The taxpayer in Union Equity Cooperative Exchange v. Commissioner, 58 TC 397, used the same method of accounting from 1950 through 1962 and “for those years, respondent’s agents never questioned this accounting practice.” Therefore, the petitioner “argues that it has relied on its accounting method for so many years that it would be inequitable to force petitioner to adopt the accounting method which respondent urges in this case.” However, the Court concluded, “The short and complete answer to petitioner’s plea is that it is well established that the Commissioner is not estopped from challenging erroneously reported items where its agents have failed, in prior taxable years, to challenge similar erroneously reported items.” (Emphasis added, citations omitted) The Appeals Court upheld the Tax Court’s decision in 481 F2d 812.

In the case of Harrah’s Club v. United States, 661 F2d 203, the Court stated, “It is settled that each tax year is another matter and that the Commissioner may challenge in a succeeding year what he condoned or agreed to in a former year.” (Citations omitted)

Citing the Harrah’s Club and Union Equity Cooperative Exchange cases, supra, in the case of Hawkins v. Commissioner of Internal Revenue, 713 F2d 347, the Court stated, “It is settled that even if the Commissioner erroneously may have accepted the tax treatment of certain items in previous years, he is not precluded from correcting that error in a subsequent year.”

Citing the Hawkins case, supra, in the case of Knights of Columbus Council #3660 v. United States of America, 783 F2d 69, the Court stated, “although the Commissioner may have condoned or accepted the erroneous treatment of certain items in previous years, he is not precluded from correcting that error in a subsequent year.” The Court continued “The government may correct such legal errors and may do so retroactively even where a taxpayer may have relied to his detriment upon the error in question. *Dickman v. Commissioner of Internal*

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended
A		Year 1, Year 2, Year 3

Revenue, 465 U.S. 330 at 343 (1984); Dixon v. Commissioner of Internal Revenue, 381 U.S. 68 at 73 (1965)." (Emphasis added)

In the case of Schaeffer v. Commissioner, 67 TCM. 2989, the Service sought to apply the negligence penalty to the disallowance of deductions claimed on the return.

Petitioners contend that the negligence addition should not apply because similar deductions had been allowed in prior years, and petitioners were merely continuing an accepted practice. They argue that, because adjustments were not made for these items in prior years, the IRS sanctioned their deductibility. That argument is not well taken. Each tax year stands on its own and must be separately considered. *United States v. Skelly Oil Co.*, 394 U.S. 678, 684 (1969) Respondent is not bound in any given year to allow a deduction permitted in a previous year. *Lerch v. Commissioner*, 877 F.2d at 627, n.6; *Knights of Columbus Council No. 3660 v. United States*, 783 F.2d 69 (7th Cir. 1986); *Corrigan v. Commissioner*, 155 F.2d 164 (6th Cir. 1946). Taxpayers have no right to continue a prior tax treatment that was wrong, either on the law or under the facts. *Thomas v. Commissioner*, 92 T.C. 206, 226-227 (First year) (Emphasis added)

In summary, the filing of the Form 990 for years does not preclude the I.R.S. to make corrections to mistakes of law. Even if the Service may have accepted the returns as filed in previous years, and in essence accepted erroneous treatment of the organization in previous years, the Service is not precluded from correcting that error in a subsequent year.

GOVERNMENT'S COMMENTS TO TAXPAYERS RESPONSE

The Service has reviewed A.'s (A) response to the Revenue Agents Report (RAR) issued. Portions of the response can be accepted as additional facts while other portions need further comment.

On Page 1 and 2 of A response, A stated that the Internal Revenue Service (the "Service") has publicly stated that the "Target" companies of its current examinations of small, tax-exempt insurance companies are those where substantial capital, often in the form of appreciated assets, has been contributed to an insurance company, which then writes minimal amounts of insurance business. The objectives of these companies, according to the Service, is the avoidance of tax on the appreciation and earnings of the contributed capital by establishing the company as a tax-exempt, small insurance company under Section 501(c)(15) of the Internal Revenue Code. A also stated that this is far from the factual situation in its case and that, in fact, A is precisely the type of insurer that Section 501(c)(15) was historically meant to embrace.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Name of Taxpayer A	Explanation of Items	Year/Period Ended Year 1, Year 2, Year 3

The Service does not argue that the "Target" companies are those mentioned above. However, this does not preclude the Service from examining other Section 501(c)(15) organizations. The Service has the authority to examine organizations whether or not they are considered one of the "Target" organizations.

To determine whether A is qualified under Section 501(c)(15), during the years under audit, the activities of A during those audit years are what must be considered. Activities in prior years are not considered. Many things can change within an organization over the years. A determination must be made whether A has been conducting activities during the audit years that qualify for exemption under Section 501(c)(15). The Service is not stating that there has been no insurance activity. In the examination of this organization it was determined that the organization has been conducting reinsurance activities. The question has not been whether or not A has or has not been conducting insurance activities; the question has been whether the primary and predominant activity has been the insurance activity. The Service still stands by its conclusion that the primary and predominant business has not been insurance but has been the lending of money.

The Service does not argue and accepts A statement that no additional capital has been contributed to A and that all assets accumulated since inception have been accumulated as profits on its reinsurance business. However, this in no way guarantees that A is operating properly during the audit years.

According to A, the Service seems to base its entire argument regarding the primary and predominant business activity of A solely on the quantitative relationship between investment revenues, 100% of which are deemed to be "non insurance-related" revenues, and premiums received. This is completely inaccurate. While the Service does consider the sources of revenue and their percentages to total revenue, it is all the activities being conducted that are considered. While the gross receipts test was added for years after year 4, the test is not being used in prior years to make a determination of whether A remains qualified under Section 501(c)(15). It is used more as guidance, to help us better understand the operation of A and how much insurance activity is actually being conducted. There are other factors that are included in making a determination whether A qualifies for exempt status

Both the courts and the Service have recognized that an insurance company's investments are an integral component of the insurance company's ability to assume risk. Further, both the courts and the IRS have often looked to the level of capitalization of a captive insurance company in determining whether it is a viable risk taker.

The Service in this case does not agree with the statement made by A on Page 4 of the response, stating that all the investments were passive; none involved the conduct of an active business, such as real estate development or operation of an active business subsidiary. The Service believes that the lending of money and the issuing of notes in the volume and with the frequency that was done by A is not a passive investment activity but an active business. The Service

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. of Exhibit
Name of Taxpayer	Explanation of Items	Year/Period Ended
A		Year 1, Year 2, Year 3

disagrees with A statement on Page 4, paragraph 6. last sentence, stating that A since its formation conducted only one active business – that of reinsurance.

The Service does not argue that the loans issued are bona fide, that they are true loans. What the Service has commented on is the volume of loans made, who they were made to, the interest rates used, the length of these loans and the frequency they were made. Most of the loans were made to family members and/or businesses of family members.

In reviewing Exhibit B of the RAR, it can be seen that there were numerous loans/notes issued over the years, for various amounts, various interest rates and various maturity dates. A made the comment in the second paragraph of Page 5 that the notes were primarily for short periods. The Service agrees that there were some for short periods but there were many for long periods of time also. There were also for amounts. There was loan made to D Finance in prior year for \$

A made the statement on Page 5, paragraph 2 that the notes were placed privately with debtors familiar to A, so the risk was minimized. As can be seen in Exhibit B, some of the loans/notes outstanding were sold to K, d.b.a. J. This was done by increasing the amount of the note with K. It was determined during the examination that the reason they sold these loans/notes to K is because as a foreign corporation, A does not have the ability to sue for nonpayment of the loans. K has the ability to sue for nonpayment of the loans/notes. If the risk was minimized as A stated, why would they have to sell the to K. The conclusion reached by the Service is that there must be a greater risk than what A indicates.

On Page 5, paragraph 3, A stated that the reason for the was because at the time, carried very low interest rates. It was also common for to carry zero percent interest rates. In reviewing the in Exhibit B, the with zero percent interest rates were for . A review of the dates the were made and the years of the , it can be determined that the were new, not used. The question is, if these were and at that time zero percent interest rate was common, why didn't the individuals get their loans from the dealerships where the were bought? Why did they get loans from A? One conclusion that may be drawn from this is that the individuals could not qualify for with the so they came to A. And since they were related to A or its shareholders in some way, there would not be a problem getting the loan.

In issuing these at zero percent interest rate, A did not conduct sound investment practices. There was no benefit received by A. The benefits were received by the person(s) that borrowed the funds. They used A for their personal gain.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Name of Taxpayer A	Explanation of Items	Year/Period Ended Year 1, Year 2, Year 3

As it is shown in Exhibit E of the RAR, a minimum of _____ of the assets were tied up in these loans/notes. As mentioned in the RAR and above, these loans notes were for various lengths of time, some being _____ & _____ years in length. These notes are not considered liquid in that, if A needed to use funds to pay off claims, the money from these loans/notes would not be available. A would have to rely on its liquid investments to be able to cover the claims. If A is operating as a sound business as they say they are, then the liquid assets would be sufficient to cover claims filed. And with this being the case, the amount in loans/notes would indicate that A is over-capitalized. There were no actuarial studies conducted to show otherwise.

CONCLUSION

Based on the facts gathered above and the law and analysis of those facts, it is determined that A does not and has not qualified for exemption under I.R.C. 501(c)(15), as an insurance company. A did conduct some insurance activity but the primary and predominant business activity conducted was the lending of money. More time and effort has gone into the lending of money than the insurance activities. The amount of premium income to total income was small in nature. A majority of the assets maintained by A were maintained in loans/notes that were not readily available for the payment of any claims that may have occurred. There were many loans issued over the course of the years and with some being at an interest rate that did not benefit A, only the borrowers. There was no actuarial study done to determine amount of assets needed. Therefore, the tax exempt status under I.R.C. Section 501(c)(15) should be denied for years beginning January 1, Year 1.

Explanation of Items

Name of Taxpayer
A

Year/Period Ended
Year 1, Year 2, Year 3

EXHIBIT A

A breakdown of the organizations that Trustee 1 and his daughters are associated with:

INDIVIDUAL	A /D Assoc.	D FINANCE	SPEC. GIFTS LLC	PRA, INC.	K.
Trustee 1					
Trustee 1					
Trustee 2					
Trustee 3					

Name of Taxpayer

Year/Period Ended

Year 1, Year 2, Year 3

EXHIBIT B

Listing of notes and loans issued:

NAME	DATE	AMOUNT	INST RATE	PURPOSE	TERMS/ DATE PAID
L. Inc.	6/28/Year 1	\$		Dealer Inventory	Sold to K 12/31/Year 2
M	3/5/Year 2	\$		Dealer Inventory	Sold to K 12/31/Year 2
D Finance Trustee 1-Pres	10/1/19	\$	%		
N dba O	7/20/19	\$		Dealer Inventory	Sold to K 12/31/Year 2
P	7/15/19	\$		Dealer Inventory	Sold to K 12/31/Year 2
Q dba R	8/25/1999	\$		Dealer Inventory	\$ overpayed 12/31/Year 1
S dba T	8/25/19	\$		Dealer Inventory	Sold to K 12/31/Year 2
Trustee 1	12/27/Year 1	\$	%	90 day sold land	Paid off 1/10/Year 2
K. dba J	12/27/Year 1	\$	%	Loan	15 years
Trustee 1	6/8/1999	\$	%	126 N. Main 128 N. Main	6/8/20
U	12/5/19	\$	%	Deed of Trust	5 years
V	8/13/19	\$	%	Deed of Trust	Paid in full w/ new loan
W	11/21/19	\$	%	Deed of Trust	30 years

Name of Taxpayer

A

Explanation of Items

Year/Period Ended

Year 1, Year 2, Year 3

Name of Taxpayer	Year/Period Ended	Amount	Percentage	Description	Notes
W	4 10 Year 1	\$	%	Deed of Trust	
X	5/5/19	\$	%	Deed of Trust	Paid off 5/22/Year 3
Y	12/29/19	\$	%	1995 Ford SW	180 payments
Z	11/18/19	\$	%	Deed of Trust	Paid off 2/13/Year 2
Z	2/09/Year 2	\$	%	Deed of Trust	Paid off 8/30/Year 3
Trustee 1	9/14/Year 1	\$	%	1997 Mazda Miata	Paid off 1/2/Year 2
Trustee 2a	1/10/19	\$	%	1996 Subaru	Paid off 3/20/Year 1
Trustee 1a	7/19/19	\$	%	1999 Ford F- 250	60 payments
Trustee 3a	9/18/19	\$	%	1997 Nissan	Paid off 10/21/Year 3
Trustee 1a	3/29/19	\$	%	Air compressor	Paid off 6/23/Year 1
Trustee 4a	10/4/19	\$	%	Personal	48 payments
Trustee 5/Trustee 3	11/25/19	\$	%	1998 Toyota	Paid off 12/31/01
Trustee 6	12/17/Year 2	\$	%	Deed of Trust	240 payments
K/Trustee 1	3/9/Year 2	\$	%		Only interest 15 years
Trustee 1a	4/13/Year 2	\$	%	Year 2 Victory	Paid off 4/4/02
Trustee 2a	10/29/Year 2	\$	%	Year 3 Chevy	No interest charged 48 payments

Explanation of Items

Exhibit

Name of Taxpayer

Year/Period Ended

A

Year 1, Year 2, Year 3

EXHIBIT C

Breakdown of Forms 990 for Year 1, Year 2 & Year 3:

FORM 990 INFORMATION	Year 1	Year 2	Year 3
Total Premiums			
Total Investment Income			
Gain on Sale of Securities			
Other			
Total Revenue			
Total Expenses			
Excess/(Deficit)			
Total Assets			
Total Liabilities			

Explanation of Items

Exhibit

Name of Taxpayer

Year/Period Ended

A

Year 1, Year 2, Year 3

EXHIBIT D

Comparison of Total Premiums to Total Revenue:

	Year 1	Year 2	Year 3
Total Premiums			
Total Revenue			
Percentage	%	%	%

Explanation of Items

Name of Taxpayer

Year/Period Ended

Year 1, Year 2, Year 3

EXHIBIT E

Percentage of Notes/Loans to Total Assets:

	Year 1	Year 2	Year 3
Notes/Loans			
Total Assets			
Percentages	%	%	%