

**Internal Revenue Service**

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Department of the Treasury  
Washington, DC 20224

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:

Telephone Number:

Refer Reply To:  
CC:TEGE:EB:HW  
PLR-T-103517-15

Date:  
April 08, 2015

Legend:

Taxpayer =

Company =

Plan =

Date X =

Date Y =

\$X =

Dear :

This responds to your letter dated April 25, 2014, and subsequent correspondence, requesting a ruling regarding the tax consequences of an amendment to the trust agreement establishing Taxpayer ("Trust Agreement"). The amendment would permit some of Taxpayer's assets, now dedicated to post-retirement health benefits, to be used to provide health benefits to active employees.

**FACTS**

Taxpayer received a determination letter, dated Date X, stating that it is a voluntary employees' beneficiary association under section 501(c)(9) of the Internal Revenue Code (Code). Taxpayer is a trust that holds assets used to provide post-retirement health benefits under Plan to eligible employees who retire from Taxpayer. Taxpayer and Plan were established on Date Y. Trust Agreement will be amended to include

active employees of Company as an additional class of participants entitled to receive health benefits under Plan. The amendment will provide that \$X of Trust will be segregated in a separate subpart of Trust to be used exclusively to provide health benefits to active employees of Taxpayer.

### **RULING REQUESTED**

Taxpayer has requested a ruling that the amendment of Trust Agreement and the use of Taxpayer's assets to provide health benefits to active employees will not result in prohibited inurement to Taxpayer within the meaning of section 501(c)(9) of the Code and will not cause Taxpayer to fail to be an organization described in section 501(c)(9).

### **LAW**

Section 501(c)(9) of the Code provides for the 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 such association or their dependents or designated beneficiaries if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

Treas. Reg. § 1.501(c)(9)-1 provides that for an organization to be described in section 501(c)(9), it must be an employees' association; membership in the association must be voluntary; the organization must provide for the payment of life, sick, accident, or other benefits to its members; and there can be no inurement (other than by payment of permitted benefits) to the benefit of any private shareholder or individual.

Treas. Reg. § 1.501(c)(9)-3(a) provides that the life, sick, accident, or other benefits provided by a voluntary employees' beneficiary association must be payable to its members, their dependents, or their designated beneficiaries. Life, sick, accident, or other benefits may take the form of cash or noncash benefits. A voluntary employees' beneficiary association is not operated for the purpose of providing life, sick, accident, or other benefits unless substantially all of its operations are in furtherance of the provision of such benefits. Further, an organization is not described in this section if it systematically and knowingly provides benefits (of more than a de minimis amount) that are not permitted by paragraphs (b), (c), (d), or (e) of this section.

Treas. Reg. § 1.501(c)(9)-3(c) provides, in pertinent part, that the term sick and accident benefits means amounts furnished to or on behalf of a member or a member's dependents in the event of illness or personal injury to a member or dependent. Such benefits may be provided through reimbursement to a member or a member's dependents for amounts expended because of illness or personal injury, or through the payment of premiums to a medical benefit or health insurance program. Sick and accident benefits may be provided directly by an association to or on behalf of members and their dependents, or may be provided indirectly by an association through the

payment of premiums or fees to an insurance company, medical clinic, or other program under which members and their dependents are entitled to medical services or to other sick and accident benefits.

Treas. Reg. § 1.501(c)(9)-4(a) provides, in pertinent part, 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 benefits permitted by Treas. Reg. § 1.501(c)(9)-3. Whether prohibited inurement has occurred is a question to be determined with regard to all of the facts and circumstances, taking into account the guidelines set forth in the regulations.

### **ANALYSIS AND CONCLUSION**

From the information provided, it does not appear that the amendment of Trust Agreement and the use of Taxpayer's assets to provide health benefits to active employees will result in prohibited inurement to a private shareholder or individual other than through the payment of health benefits to employees. As described in Treas. Reg. § 1.501(c)(9)-3, an organization described in section 501(c)(9) may provide health benefits to employees. Accordingly, the transaction will not cause Taxpayer to fail to be an organization described in section 501(c)(9).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, this ruling does not address tax consequences of the described transaction to any employer who made contributions to Taxpayer.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Janet A. Laufer  
Senior Technician Reviewer  
Health & Welfare Branch  
Office of Associate Chief Counsel  
(Tax Exempt & Government Entities)