

Internal Revenue Service

Number: **202445010**
Release Date: 11/8/2024
Index Number: 115.00-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:EEE:EOET:EO1
PLR-103676-24
Date:
August 09, 2024

Legend

Trust =
State =
Association =
Group Members =

Dear :

This letter ruling responds to a request dated February 9, 2024, and subsequent correspondence submitted on behalf of Trust, requesting a ruling that the income of Trust is excludable from gross income under section 115(1) of the Internal Revenue Code (Code)¹ because all of Trust’s income is derived from the exercise of an essential governmental function and accrues to a state or political subdivision thereof.

FACTS

Trust was formed under a Declaration of Trust and Bylaws to provide self-insured workers’ compensation coverage to State school districts and similar public entities (hereafter, Group Members), all of which are also members of Association, a section 501(c)(4) tax-exempt corporation formed under the laws of State. Trust allows school

¹ Unless otherwise noted, all references in this letter ruling to “section” refer to the Internal Revenue Code of 1986, as amended.

districts to pool their workers' compensation liabilities to qualify as self-insurers under State law. Trust is governed by a 10-member Board of Trustees, half of which are current or former officers of Association, and half of which are appointed from among school administrators or at large.

All school districts in State are Group Members. The Declaration of Trust and Bylaws provides that each Group Member must be a political subdivision of State, an integral part of a political subdivision of State, or an entity whose entire income is excludable from gross income under section 115(1). Each Group Member, as an employer in State, is required by State law to provide workers' compensation insurance. Trust is administered by Association pursuant to a services agreement under the direction of Trust's Board of Trustees. The Board of Trustees sets the premiums to be paid for workers' compensation coverage, collects the premiums and administers the fund, and processes workers' compensation claims.

The Declaration of Trust and Bylaws expressly prohibits any trustee, officer, employee, member of a committee, person connected with Trust, or any individual or entity other than State, a political subdivision thereof, or an entity the income of which is excludable from gross income under section 115(1) from receiving at any time any of the net earnings or pecuniary profit from Trust. It also provides that upon dissolution of Trust, the remaining assets of Trust, after all debts have been satisfied, shall be distributed, transferred, conveyed, delivered, and paid over exclusively to State, a political subdivision of State, or an entity the income of which is excludable from its gross income under section 115(1).

RULING REQUEST

Trust requests a ruling that it exercises an essential governmental function and its income is excludable from gross income under section 115(1).

LAW

Section 115(1) provides that gross income does not include income derived from any public utility or the exercise of any essential governmental function and accruing to a state or any political subdivision thereof, or the District of Columbia.

Rev. Rul. 77-261, 1977-2 C.B. 45, holds that income generated by an investment fund that is established by a state to hold revenues in excess of the amounts needed to meet current expenses is excludable from gross income under section 115(1) because such investment constitutes an essential governmental function. The ruling states that the statutory exclusion is intended to extend not to the income of a state or municipality resulting from its own participation in activities, but rather to the income of an entity engaged in the operation of a public utility or the performance of some governmental function that accrues to either a state or political subdivision of a state. The ruling explains that it may be assumed that Congress did not desire in any way to restrict a

state's participation in enterprises that might be useful in carrying out projects that are desirable from the standpoint of a state government and that are within the ambit of a sovereign to conduct.

Rev. Rul. 90-74, 1990-2 C.B. 34, holds that the income of an organization formed, funded, and operated by political subdivisions to pool various risks (casualty, public liability, workers' compensation, and employees' health) is excludable from gross income under section 115(1) because the organization is performing an essential governmental function. The revenue ruling states that the income of such an organization is excludable from gross income so long as private interests do not participate in the organization or benefit more than incidentally from the organization. The benefit to the employees of the insurance coverage obtained by the member political subdivisions was deemed incidental to the public benefit.

ANALYSIS

Trust provides self-insured workers' compensation coverage to public school districts in State. Trust's administration of a self-insured workers' compensation fund for political subdivisions constitutes the performance of an essential governmental function within the meaning of section 115(1). See Rev. Rul. 90-74 and Rev. Rul. 77-261.

Trust's income accrues to the benefit of State or political subdivisions of State. No private interests will participate in, or benefit more than incidentally from, the operation of Trust, as required under Rev. Rul. 90-74.

In no event, including upon dissolution, will Trust assets be transferred to or revert to an entity that is not State, a political subdivision of State, or an entity whose income is excludable from gross income under section 115(1).

RULING

Based on the information and representations submitted on behalf of Trust, we have determined that Trust exercises an essential governmental function under section 115(1). Thus, because Trust derives its income from the exercise of an essential governmental function and Trust's income accrues to State or political subdivisions of State, Trust's income is excludable from gross income under section 115(1).

The ruling contained in this letter is based upon information and representations submitted by or on behalf of Trust and accompanied by penalties of perjury statements executed by individuals with authority to bind Trust and upon the understanding that there will be no material changes in the facts. While this office has not verified any of the material submitted in support of the request for this ruling, it is subject to verification on examination. The Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling

facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2024-1, 2024-1 I.R.B. 1, section 11.05.

This letter does not address the applicability of any section of the Code or Treasury Regulations to the facts submitted, other than those sections specifically described. 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.

Because it could help resolve questions concerning federal income tax status, this letter should be kept in Trust's permanent records and must be attached to any tax return to which it is relevant. Trust may attach a statement to the return that provides the date and control number of this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent. In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to Trust's authorized representatives.

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

Sincerely,

Matthew Giuliano
Branch Chief
Exempt Organizations Branch 1
Employee Benefits, Exempt Organizations, and
Employment Taxes

cc: