

Internal Revenue Service

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Date:
February 03, 2026

LEGEND

Date =
Institution =
Country A =
Year 1 =
Year 2 =
Year 3 =
Year 4 =
Accident Insurance Law =
Health Insurance Law =

Dear :

This is in response to your letter on Date requesting a ruling that Institution’s (1) provision of accident insurance, (2) ownership and operation of two rehabilitation medical clinics, and (3) provision of workplace safety and general health guidance, do not cause Institution to be treated as engaged in commercial activities under section 892.

FACTS

Institution represents that the facts are as follows:

Institution is a Country A non-profit public law institution established in Year 1 under the Accident Insurance Law. Institution is controlled by the legislative branch of the government of Country A and is a “controlled entity” of Country A within the meaning

of Temp. Treas. Reg. § 1.892-2T(a)(3). Institution has no subsidiaries. As described in more detail below, Institution conducts the following activities:

- (i) Provision, on an exclusive basis, of accident insurance for employees in Country A working in specified industry sectors, members of the Country A military, and the unemployed, and for other employees in Country A who choose to obtain coverage from Institution;
- (ii) Operation of two wholly owned medical clinics located in Country A that provide specialized medical care and rehabilitation services to individuals insured by Institution and other individuals in Country A entitled to specialized medical treatment; and
- (iii) Production and distribution of workplace safety and general health guidance in Country A.

Accident Insurance

Accident insurance is compulsory for all employees working in Country A. Accident insurance covers loss of income, medical treatment, and rehabilitation for individuals who have experienced an accident or developed an occupational disease in Country A. Institution is the exclusive provider of accident insurance under the Accident Insurance Law to (A) employees in Country A working in certain specified industry sectors (the “Covered Businesses”),¹ (B) members of the Country A military, and (C) unemployed residents of Country A. No private insurance companies may provide accident insurance to these groups of individuals under the Accident Insurance Law.

With respect to members of the Country A military, Institution provides military insurance as a separate branch of social insurance under the Accident Insurance Law. This insurance covers all health impairments and economic consequences of those impairments experienced by the military personnel of Country A during security and peacetime services. The military insurance is directly financed by the government of Country A.

¹ Covered Businesses are generally in industry sectors that are inherently dangerous due to factors such as use of heavy machinery and equipment.

Institution may provide accident insurance to other workers in Country A who do not belong to these three groups. To be eligible, a worker must perform a majority of his or her work functions in Country A and must be employed under a contract governed by Country A law.²

Altogether, approximately half of Country A's workforce is covered by accident insurance provided by Institution. The remaining half of the workforce is covered by accident insurance from an authorized provider on the same basic terms and conditions as those governing the accident insurance provided by Institution.

Medical Clinics

Institution owns and operates two rehabilitation clinics that provide medical and rehabilitation services. The clinics were established in Year 2 and Year 3 to provide rehabilitation support to individuals insured by Institution. Since Year 4, the clinics have also provided rehabilitation support for individuals serving in the military who have suffered accidents as part of Institution's obligation under the Accident Insurance Law.

The clinics' services are highly specialized and primarily focused on neurological rehabilitation, rehabilitation from severe trauma (e.g., a loss of a limb), sports medicine and rehabilitation, vocation-specific rehabilitation, and certain additional specialty functions. Due to the clinics' high degree of specialization, there are only a few other clinics in Country A that have similar (but not equivalent) capabilities. In certain circumstances, the clinics are the only option in Country A for certain types of rehabilitation.

Institution is legally obligated to treat all patients needing specialized rehabilitation services at its clinics. The clinics' services are available under Country A law to all residents of Country A, persons employed in Country A, and tourists visiting Country A. Under the Accident Insurance Law, all Country A employees covered by accident insurance (whether provided by Institution or another insurer) are entitled to professional medical treatment, including rehabilitation services, from a facility of their choice in relation to a covered accident. Under the Health Insurance Act, all Country A residents are covered by basic health insurance and may, under relevant procedures, be legally entitled to receive specialized rehabilitation services at Institution's clinics.

Workplace Safety and General Health Guidance

Under the Accident Insurance Law, Institution is the designated body responsible for accident prevention in Country A. It is obligated under the law to provide workplace safety guidance to the companies and employees that are covered by Institution's

² An individual covered by the accident insurance does not necessarily need to be a resident of Country A. Institution estimates that a substantial minority of the insured individuals are not Country A residents, such as cross-border commuters from neighboring countries that work in Country A pursuant to an employment contract governed under Country A law.

accident insurance. The guidance includes training regarding the safe operation of heavy machinery, the safe handling of explosives and explosive materials, the safe handling of radioactive materials, and similar topics relevant to the companies and employees in the Covered Businesses. Institution also provides general health guidance to the employees of companies that it insures. This guidance generally relates to the promotion of health and addresses topics such as substance abuse, sleep hygiene, and dietary health.

Institution's workplace safety and general health guidance is generally available to the public on Institution's website. Institution also distributes the guidance materials as part of workplace safety audits that it conducts and in public settings such as information booths at sporting events.

LAW

Section 892(a)(1) exempts from U.S. tax the income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities; income received from financial instruments held in the execution of governmental financial or monetary policy; and interest on deposits in banks in the United States of moneys belonging to such foreign governments.

Section 892(a)(2)(A) provides that the exemption under section 892 does not apply to income derived from the conduct of any commercial activity, or to income received directly or indirectly from or by a controlled commercial entity ("CCE"), or derived from the disposition of any interest in a CCE.

Section 892(a)(2)(B) defines the term "controlled commercial entity" to mean any entity engaged in commercial activities (whether within or outside the United States) if the foreign government holds (directly or indirectly) (i) any interest in such entity that is 50 percent or more (by value or voting interest) of the total of such interests in the entity, or (ii) any other interest in such entity that provides the foreign government with effective control of the entity.

Treas. Reg. § 1.892-4(b) provides in general that, except as provided in Treas. Reg. § 1.892-4(c), which refers to Temp. Treas. Reg. § 1.892-4T(c) for further guidance, all activities (whether conducted within or outside the United States) that are ordinarily conducted for the current or future production of income or gain are commercial activities, and only the nature of the activity, not the purpose or motivation for conducting the activity, is determinative of whether the activity is commercial in character. For purposes of this general rule, activities that constitute a trade or business for purposes of section 162 or constitute (or would constitute if undertaken in the United States) a trade or business in the United States for purposes of section 864(b) are commercial activities.

Treas. Reg. § 1.892-4(c)(6) refers for further guidance to Temp. Treas. Reg. § 1.892-4T(c)(4), which provides that governmental functions are not commercial activities. The regulations define “governmental functions” as follows:

“The term ‘governmental functions’ shall be determined under U.S. standards. In general, activities performed for the general public with respect to the common welfare or which relate to the administration of some phase of government will be considered governmental functions. For example, the operation of libraries, toll bridges, or local transportation services and activities substantially equivalent to the Federal Aviation Authority, Interstate Commerce Commission, or United States Postal Service will all be considered governmental functions for purposes of this section.”

ANALYSIS

As described above, Institution is a “controlled entity” of Country A within the meaning of Temp. Treas. Reg. § 1.892-2T(a)(3). Thus, Institution would be a CCE if it conducts any commercial activity. Even if the Institution’s activities are ordinarily conducted by private enterprises for the current or future production of income or gain, the activities would not be treated as commercial activities if they qualify as “governmental functions” for purposes of section 892.

Besides the text of Temp. Treas. Reg. § 1.892-4T(c)(4), there is no published guidance on what constitutes a governmental function for purposes of section 892.³ The text of the provision indicates that the term “governmental functions” is determined under U.S. standards by taking into account all facts and circumstances. Therefore, whether an activity is mandated by a foreign government under foreign law may be relevant but is not dispositive as to the determination of governmental functions under section 892.

As a demonstration of the U.S. standards, the regulations provide as a general rule that activities “performed for the general public” with respect to the “common welfare” or that relate to “the administration of some phase of government” will be considered as governmental functions. To illustrate this general rule, the regulations list examples of U.S. governmental services including operating libraries, toll bridges, or local transportation services and activities of U.S. government agencies such as the Federal Aviation Administration, the Interstate Commerce Commission, and the United States Postal Service. In essence, the general rule presents two approaches to the

³ The regulations under section 892 provide a definition of the term “governmental functions” for the purpose of defining commercial activity. The meaning of the term or the concept of “governmental functions” expressed in the regulations may be different from, and does not depend on, the meaning of the same words as used in another Code section, regulation, or guidance. *Cf. e.g.*, section 115(1) (using the term “essential governmental function” to delineate income of a U.S. state government excluded from federal taxation); Rev. Rul. 57-128, 1957-1 C.B. 311 (listing the performance of governmental functions as a factor in determining whether an organization is a U.S. state instrumentality).

determination of governmental functions without explicitly providing two alternative tests.

First, certain foreign governmental services that are “performed for the general public” with respect to the “common welfare” will be considered governmental functions (the “Common Welfare Test”). In this regard, the services must be “performed for the general public” of the foreign sovereign (as opposed to activities performed for the general public of a country other than that of the foreign government). Whether the services relate to “common welfare” is assessed under U.S. standards. Thus, whether a government in the United States (at the federal, state, or local level) provides the same or similar services would be highly relevant to the Common Welfare Test.

Second, certain activities of a foreign government that relate to “the administration of some phase of government” will also be considered as governmental functions (the “Phase of Government Test”). Examples of qualifying activities are those that are “substantially equivalent to” ones performed by a U.S. government⁴ in the exercise of its sovereign powers, such as regulating interstate commerce and operating the postal service. It is possible that activities performed by a U.S. government department or agency in the exercise of its authority granted under the sovereign powers would also contribute to the common welfare of the general public in the United States. As such, the Common Welfare Test and the Phase of Government Test are not mutually exclusive, and the examples in the regulations illustrating the Phase of Government Test may also serve as illustrations of the Common Welfare Test.

Accident Insurance

Provision of accident insurance is an activity that is ordinarily conducted for the current or future production of income or gain. Thus, it would constitute a commercial activity unless an exception under Treas. Reg. § 1.892-4(c) applies, including the governmental functions exception under Treas. Reg. § 1.892-4(c)(6) and Temp. Treas. Reg. § 1.892-4T(c)(4).

As described above, accident insurance is compulsory for all employees in Country A under the Accident Insurance Law. Institution is an organization wholly owned and controlled by Country A government that is the exclusive provider of accident insurance in Country A for employees of Covered Businesses, members of the military, and the unemployed. Individuals employed by other businesses in Country A are not precluded from obtaining accident insurance from the Institution. Therefore,

⁴ Although the examples are limited to U.S. federal government activities, they are not exclusive, and the best reading of the provision includes comparable U.S. state and local governmental functions. The phrase “under U.S. standards” in Temp. Treas. Reg. § 1.892-4T(c)(4) applies equally to both the Common Welfare Test and the Phase of Government Test and clearly contemplates local government for the former, by reference to activities like local transportation, which are generally conducted by U.S. state and local governments. Therefore “under U.S. standards” contemplates U.S. state and local government activities for the Phase of Government Test as well.

Institution's provision of accident insurance is "performed for the general public" of Country A.

Institution's accident insurance should be viewed as a service that relates to the "common welfare" of the general public in Country A under U.S. standards. While there is no U.S. government department or agency that could be regarded as a direct parallel of the Institution, the nature of accident insurance offered by Institution appears to be similar to the workers' compensation insurance mandated under U.S. federal and state law. In some instances, Institution's provision of accident insurance is comparable to the provision of workers' compensation coverage by the U.S. Department of Labor's Office of Workers' Compensation Programs for various federal workers, and by the monopolistic state workers' compensation insurance programs, including in Ohio, North Dakota, Washington, and Wyoming.

Furthermore, Institution's provision of accident insurance exhibits objective connections with the common welfare of the general public in Country A. The government of Country A, through the Institution, sets a minimum level of protection and care for all employees in Country A in the event of workplace accidents. In particular, Institution provides a uniform, government-sponsored program for individuals that are vulnerable and exposed to working conditions in occupations in which there is a heightened risk of serious physical injury. Institution's accident insurance could alleviate adverse personal financial consequences and economic strain on public finances that result from serious accidents. It could also deter a disruption in key industries and essential services by encouraging employment in the Covered Businesses and the military.

Accordingly, Institution's provision of accident insurance meets the Common Welfare Test and is considered a governmental function and thus not a commercial activity.

Medical Clinics

Operation of medical clinics is generally regarded as an activity that is ordinarily conducted for the current or future production of income or gain. Thus, it would constitute a commercial activity unless an exception under Treas. Reg. § 1.892-4(c) applies, including the governmental functions exception under Treas. Reg. § 1.892-4(c)(6) and Temp. Treas. Reg. § 1.892-4T(c)(4).

Institution owns and operates two rehabilitation clinics focused on providing specialized rehabilitation and medical care services to Country A employees, residents, and military personnel. These specialized rehabilitation and medical care services (including treatment that is not available at any other medical facility in Country A) are accessible to individuals insured by Institution's accident insurance and to the general public of Country A under the Health Insurance Law. Therefore, Institution's operation of medical clinics is "performed for the general public" of Country A.

Institution's operation of medical clinics is also performed with respect to the "common welfare" of the general public in Country A under U.S. standards. Institution's medical clinics are comparable to the medical facilities with rehabilitation capabilities operated by the Veterans Health Administration of the U.S. Department of Veterans Affairs and the Indian Health Service, and by many state and municipal health agencies, such as the New York City Health and Hospitals Corporation. In addition, operating the clinics promotes the common welfare of the general public by providing access to critical rehabilitation and medical care services that otherwise might not be available to Country A employees in certain essential but high-risk occupations and members of the military.

Accordingly, Institution's operation of the medical clinics meets the Common Welfare Test and is considered a governmental function and thus not a commercial activity.

Workplace Safety and General Health Guidance

Institution's provision of workplace safety and general health guidance do not appear to be activities that are ordinarily conducted for the current or future production of income or gain, and thus may not constitute commercial activities under the general rule of Treas. Reg. § 1.892-4(b). Even if they were commercial activities under the general rule, the activities would be excepted if they qualify as governmental functions under Treas. Reg. § 1.892-4(c)(6) and Temp. Treas. Reg. § 1.892-4T(c)(4).

Institution is the designated body responsible for accident prevention in Country A. Institution produces and distributes workplace safety and general health guidance materials to employees covered by its accident insurance and the general public in Country A. These materials are publicly available on Institution's website and are distributed during workplace audits and at public events. Institution's workplace safety guidance appears similar in nature to the publications and information produced by the Occupational Safety and Health Administration under the U.S. Department of Labor. Institution's general health guidance is comparable to the preventive care materials offered by the Centers for Disease Control and Prevention under the U.S. Department of Health and Human Services. Accordingly, Institution's provision of workplace safety and general health guidance are governmental functions under the Common Welfare Test and, therefore, not commercial activities for purposes of section 892.

RULING

Based solely on the information submitted and the representations made, Institution's provision of accident insurance, ownership and operation of the medical clinics, and provision of workplace safety and general health guidance are considered governmental functions and therefore are not commercial activities under Treas. Reg. § 1.892-4(c)(6) and Temp. Treas. Reg. § 1.892-4T(c)(4).

CAVEATS

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

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. Furthermore, except as expressly provided in the ruling, no opinion is expressed or implied concerning whether Institution is a controlled entity as defined under Temp. Treas. Reg. § 1.892-2T(a) or a CCE under section 892(a)(2)(B). No opinion is expressed or implied concerning whether any income received by any party qualifies for exemption from U.S. federal income tax under section 892.

This letter ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that this letter ruling may not be used or cited as precedent. This letter ruling will be modified or revoked by the adoption of temporary or final regulations to the extent the regulations are inconsistent with any conclusion in the letter ruling. See Section 11 of Rev. Proc. 2026-1, 2026-1 I.R.B. 1, 65. If the taxpayer can demonstrate that the criteria in Section 11 of Rev. Proc. 2026-1 are satisfied, a letter ruling is not revoked or modified retroactively except in rare or unusual circumstances.

A copy of this letter must be attached to any income tax return to which it is relevant.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Matthew S. Blum
Senior Technical Reviewer, Branch 5
Office of the Associate Chief Counsel
(International)

cc: