DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224 200041035

UIL: 4976.01-00

Date:
JUL 17 2000

OP:E:EO:T3

Contact Person:

ID Number:

Telephone Number:

Employer Identification Number:

LEGEND:

T=

U=

V=

W=

X=

Y=

Z=

Dear Sir or Madam:

This is in response to your ruling request dated August 25, 1999, which was submitted on your behalf by your authorized representatives. You are seeking rulings on the federal income tax consequences of certain proposed changes in your operations as more fully described below,

T is a voluntary employees' beneficiary association that has been recognized as exempt from federal income tax under section 501(c)(9) of the Internal Revenue Code. T was originally part of Z, a trust created for the purpose of implementing a group health insurance program for the benefit of the employees, agents and retirees of several employers and their affiliates.

Effective September 1, 1993, Z was separated into four separate group health trusts, one of which was T. T received a portion of the monies from Z and agreed to apply such monies to the provision of health benefits for the employees, agents and retirees of X and Y. X was owned by 11 organizations, including Y which, in turn. was managed by X.

Throughout its existence, contributions were made to T by its sponsor X, by Y, and also by participants and beneficiaries of T in order to provide medical benefits to employees, agents and retirees of X and Y. Effective January 1, 1994, employees and agents of Y became employees of V as a result of V's

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acquisition of Y. Effective April 30, 1996, employees and agents of X became employees of W, a wholly owned subsidiary of V, as a result of W's acquisition of X. As a result, eligibility for group health benefits under T was terminated effective July 31, 1998, although claims continued to be paid during a "run-out' period for expenses incurred prior to July 31, 1998. T's net assets as of December 31, 1997 totaled 6400,451 and, as of June 30, 1999, totaled $552,722.

In the past, eligible participants were substantial in number but, given the transfer of employees and agents to V, only 25 to 30 individuals, all retirees, would have been eligible to receive benefits from T if T were not terminated. The remaining employees for whom the contributions were initially made, other than the retirees, are about 200 in number. These 200 individuals, while employed by a successor employer, V, have been absorbed into a variety of job capacities and now share the same geographic work-site as employees of V, U, and affiliated companies. There are no current employees who would be eligible for benefits from T.

Following a conference with representatives of the Exempt Organizations Division in December, 1999, T's representatives now propose that, rather than terminating the Trust or transferring assets to any new tax-exempt trust sponsored by V, the existing trust, T, shall remain in existence and operation and will provide welfare benefits to employees of V, U and their affiliated companies. T will continue, with V (the parent corporation of W, who is the successor employer of X), being substituted as the "Company" under the terms of the Trust. The only change to the Trust document would be to substitute V for X as the "Company." T now seeks rulings on the effect that the proposed changes will have on T's exempt status under section 501 (c)(9) of the Code and whether it will constitute a disqualified benefit and subject U or V to the excise tax imposed by section 4976.

Initially. it is contemplated that the new welfare benefit program to be adopted by T will be the self-insured dental program currently in operation and adopted by V, U and affiliated companies. The Trustee is allowed by the terms of its trust agreement to adopt other benefit programs for employees.

Section 501(c)(9) of the Code provides for the exemption of voluntary employee 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.

Section 1.501(c)(9)-4(a) of the Income Tax Regulations provides 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 section 1501(c)(9)-3. (life, sick, accident, or other benefits).

Section 1.501(c)(9)-4(d) of the regulations provides in pertinent part that a distribution to members upon dissolution of an association will not constitute prohibited inurement if the amount distributed to members is determined pursuant to the terms of a collective bargaining agreement or on the basis of objective and reasonable standards which do not result in either unequal payments to similarly situated members or in disproportionate payments to officers, shareholders, or highly compensated employees of an employer contributing to or otherwise funding the employees' association.

Section 4976(a) of the Code imposes a tax on the employer for "any disqualified benefit" provided under a welfare benefit fund maintained by the employer.

Section 4976(b)(l)(C) of the Code provides that the term "disqualified benefit" means any portion of a welfare benefit fund reverting to the benefit of the employer.

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The substitution of V for X as Company in the Trust instrument will not adversely affect T's tax-exempt status under section 501(c)(9) of the Code nor result in prohibited inurement. T's assets will remain dedicated to providing permissible benefits to employees of V, U and their affiliated companies, including former employees of X, now absorbed into V. The transferred assets will be used to provide permissible life, sick, accident or other benefits pursuant to criteria that do not provide disproportionate benefits to officers, shareholders, or highly compensated employees. Accordingly, the inurement proscription of section 1.501 (c)(9)4(a) of the regulations will not be violated.

Since none of T's assets will revert to X, or be transferred to V or U following the substitution of V for X as Company in the Trust document, no disqualified benefit will be provided. In the absence of a reversion constituting a disqualified benefit, the 100% excise tax under section 4976 will not be triggered.

Based on the information submitted and the representations made therein, we rule as follows:

(1) The proposed substitution of V for X as the Company in the trust document and providing of welfare benefits to employees of V, U and their affiliates through T will not constitute prohibited inurement or adversely affect T's tax-exempt status under section 501 (c)(9) of the Coda;

(2) The proposed substitution of V for X as the Company in the trust document and providing of welfare benefits to employees of V, U and their affiliates through T will not constitute a disqualified benefit under section 4976(a) of the Code and will not result in any excise tax liability for U or for V, the successor employer to X.

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

Because it may help resolve any questions regarding your exempt status, you should keep a copy of this ruling letter in your permanent files.

If you have any questions please call the person whose name and telephone number appear in the heading of this letter.

Sincerely,

(signed) Robert C. Harper, Jr.

Robert C. Harper, Jr.
Chief, Exempt Organizations
Technical Group 3

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