200005029 SIN 501.21-00 4951.05-00 4952.05-00 4953.02-00

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

Date:
OCT 29 1999

Contact Person:

ID Number:

Telephone Number:

OP:E:EO:T:2

LEGEND A =
B =

C =
D =

Employer Identification Number:

Dear Sir or Madam:

This is in reply to the letter dated June 11, 1999, as amended by the letter of July 26, 1999, requesting various rulings concerning the consequences to A, B and C by reason of the sale of B to D.

A is the common parent of a group of affiliated wholly owned direct and indirect subsidiary companies. Included in these holdings is B, a coal company and certain other subsidiaries which are also in the coal business. C, a Trust, was established to pay the claims for disability or death due to pneumoconiosis or black lung disease of present and former employees of B and certain other subsidiary coal companies owned by A. C has been recognized as exempt from Federal Income Tax as an organization described in section 501(c)(21) of the Internal Revenue Code.

B and certain other subsidiaries of A have been purchased by D. These coal companies have been merged into D and they no longer exist as separate companies. The sponsorship of C has been effectively transferred to D. It has been represented that all of the employees of B will continue to be covered under the Trust. The subsidiaries that participate in the Trust will continue to contribute to the Trust the amounts deemed sufficient to provide Black Lung Benefits (including administrative and other incidental expenses) as determined by using reasonable actuarial methods, assumptions and calculations.

The trust instrument governing C will be amended to reflect certain changes necessitated by the above described merger. However, it has been represented that the general terms and purposes of the Trust Agreement governing C will remain the same as will the duties and obligations of the trustees.

As modified in the letter of July 26, 1999, the following rulings have been requested:

Re:

1. Whether, the Trust Agreement as amended pursuant to the proposed Amendment will continue to qualify as a tax-exempt trust under Section 501(c)(21).

2. Whether, under the Trust Agreement, as amended pursuant to the proposed Amendment, the payment of claims and liabilities of present and former employees of the Coal Company and subsidiaries of D (as it is now presently known and operating) for disability or death due to pneumoconiosis (or black lung) disease under the Black Lung Acts (as defined in Section 501(c)(21)) ("Black Lung Liabilities") will not result in an act of "self-dealing" within the meaning of Section 4951 of the Code with respect to A or D.

3. Whether, under the Trust Agreement, as amended pursuant to the proposed Amendment, the payment of Black Lung Liabilities will not result in a "taxable expenditure" within the meaning of Section 4952 of the Code with respect to D and/or A.

4. Whether, under the Trust Agreement, as amended pursuant to the proposed Amendment, the payment of Black Lung Liabilities will not result in "excess contributions" within the meaning of Section 4953 of the Code with respect to D and/or A.

Section 501(c)(21) of the Code exempts from federal income tax trusts created or organized in the United States exclusively to: (a) satisfy, in whole or in part coal mine operators' liabilities for disability or death due to pneumoconiosis under Black Lung Acts; (b) to pay premiums for insurance exclusively covering liability; and (c) to pay administrative and other incidental expenses of such trust (including legal, accounting, actuarial, and trustee expenses) incurred in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts.

Section 501(c)(21)(B) of the Code provides, in part, that no part of the assets of the trust may be used for or diverted to, any purpose other than, the purposes described in section 501(c)(21)(A).

Section 4951 of the Code imposes a tax on each act of self-dealing between a disqualified person and a trust described in section 501(c)(21).

Section 4951(d)(1)(E) of the Code states that for purposes of section 4951, the term "self-dealing" means any direct or indirect transfer to, or use by or for the benefit of, a disqualified person of the income or assets of such a trust.

Section 4951(e)(4) of the Code defines the term "disqualified person" as including a corporation of which substantial contributors, foundation managers, or owners of more than a set interest in a corporation, partnership or trust, own more than 35 percent of the total combined voting power of the corporation.

Section 4952(a) of the Code imposes a tax on each taxable expenditure.

Section 4952(d) provides that for purposes of this section, the term "taxable expenditure" means any amount paid or incurred by a trust described in section 501(c)(21) other than for a purpose specified in such section.

Section 4953(a) imposes a tax on the excess contributions made by a person to or under a trust or trusts described in section 501(c)(21).

Re:

Section 4953(b) of the Code provides, in part, that the term "excess contribution" means the amount by which the amount contributed for a taxable year to a section 501(c)(21) trust exceeds the allowable deduction for that year under section 192.

Section 192(c)(1)(A) of the Code provides that the deduction for contributions to a section 501(c)(21) trust shall be determined by using reasonable actuarial methods and assumptions.

The Income Tax Regulations for both section 4951 and 4952 of the Code state, in part, that the regulations and rulings under the corresponding provisions of sections 4941 (self-dealing), 4945 (taxable-expenditures) and 4946 (definitions and special rules) shall apply to sections 4951 and 4952 where appropriate.

The information and representations made in this request for a ruling indicate that after the merger C will continue to operate and pay benefits in a manner consistent with the provisions of section 501(c)(21) of the Code. In addition, contributions to the trust will continue to be made based on actuarial computations.

B, as a contributor to the Trust is a disqualified person under section 4951(e)(4)(A) of the Code. Similarly, A, as the parent of B is a disqualified person under section 4951(e)(4)(A). As a result of the sale D has become a disqualified person both as an owner and as a substantial contributor to C. C's sole activity is to be the direct payment of Black Lung Benefits to the employees and retirees of B and certain other subsidiary companies, prior to the sale of these companies, and D's employees as a successor to B.

Accordingly, based on the representations made, we rule as follows:

1. The Trust Agreement as amended pursuant to the proposed Amendment will continue to qualify as a tax-exempt trust under Section 501(c)(21).

2. Under the Trust Agreement, as amended pursuant to the proposed Amendment, the payment of claims and liabilities of present and former employees of the C and subsidiaries of D (as it is now presently known and operating) for disability or death due to pneumoconiosis (or black lung) disease under the Black Lung Acts (as defined in Section 501(c)(21)) ("Black Lung Liabilities") will not result in an act of "self-dealing" within the meaning of Section 4951 of the Code with respect to D and/or A.

3. Under the Trust Agreement, as amended pursuant to the Amendment, the payment of Black Lung Liabilities will not result in a "taxable expenditure" within the meaning of Section 4952 of the Code with respect to D and/or A.

4. Under the Trust Agreement, as amended pursuant to the Amendment, the payment of Black Lung Liabilities will not result in "excess contributions" within the meaning of Section 4953 of the Code with respect to D and/or A.

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

We are informing your key district of this ruling. Because this letter could help resolve any question about your exempt status, you should keep it in your permanent records.

Re:

If you have any question about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter. For other matters, including questions concerning reporting requirements, please contact your key District Director.

Sincerely,

(Signed) Garland A. Carter

Garland A. Carter
Chief, Exempt Organizations
Technical Branch 2