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

200431020

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

S.I.N. – 501.09-03; 4976.01-00

Date: MAY - 7 2004

Contact Person:

Identification Number:

Contact Number:

T. EO. B3

Employer Identification Number:

Legend:

X =
Y =
Z =

Dear

This is in response to a letter from X's ("Trust") authorized representative, who has requested certain rulings relating to the tax consequences of a proposed transaction.

The information submitted shows that the Trust, based on a determination letter dated November 8, 1994, is exempt from federal income tax under section 501(c)(9) of the Internal Revenue Code. The Medical Plan is a component of the Trust. The Medical Plan and the Trust are sponsored by and related to Y. Y is a Z nonprofit corporation and the state's largest trade association devoted exclusively to the representation of commercial banks. Y provides a variety of services to its members, including certain welfare benefit programs.

The Medical Plan provided medical coverage to eligible employees of participating Y members through . On , the Medical Plan changed from an active self-funded plan to an inactive plan, and no longer receives premium payments from Y members. Commencing January 1, 1997, medical coverage for participating Y members was, and is, provided through third-party insurance.

Approximately $ remains in the Trust related to the Medical Plan, and no further medical claims are anticipated. The Trust contains three other component plans: the Dental Plan, the Life Plan, and the Long-Term Disability Plan.

At June 30, 2002, the Dental Plan had participants, the Life Plan had participants and the Long-Term Disability Plan had participants. These participants are

the employees of the Y member banks throughout the State of Z and only a small fraction are officers, shareholders, or highly compensated employees.

The Trustees of the Trust and Y propose terminating the inactive Medical Plan and merging the remaining assets of the Medical Plan into the Trust's remaining plans. The merging of assets would be divided equally among the Trust's remaining plans.

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.

Section 1.501(c)(9)-4(a) of the Income Tax Regulations provides, in part, that 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 this section. Section 1.501(c)(9)-4(d) of the regulations provides that it will not constitute prohibited inurement if on termination of a plan funded through a VEBA any assets remaining after satisfying all liabilities to existing plan beneficiaries are applied to provide life, sick, accident or other appropriate welfare benefits pursuant to criteria that do not provide for disproportionate benefits to officers, shareholders or highly compensated employees.

Section 4976 of the Code imposes an excise tax on an employer equal to 100% of any disqualified benefit provided by an employer-maintained welfare benefit fund.

Section 4976(b)(1)(C) of the Code defines a "disqualified benefit" to include any portion of a welfare fund reverting to the benefit of the employer.

The Trust has requested a ruling that the termination of the Medical Plan and transfer of its assets into its other three component plans will not adversely impact the Trust's tax-exempt status or constitute a "disqualified benefit" providing an impermissible reversion of assets.

Based on a provision adopted by the Trustees, the Trustees have the authority to determine the disposition of surplus assets upon Medical Plan termination, provided that the surplus is used to provide benefits allowable under a trust governed by section 501(c)(9) of the Code. Assets transferred into the Trust will be used to continue to provide permissible 501(c)(9) benefits for employees of participating Y members. Therefore, the proposed merger will not constitute impermissible inurement under section 501(c)(9) of the Code, because the surplus assets will be used to provide permissible benefits on a nondiscriminatory basis under the component plans funded through the Trust. Accordingly, the termination and transfer of surplus will not adversely affect the Trust's tax-exempt status under section 501(c)(9).

In addition, the transfer of the surplus to the Trust will not result in a reversion to an employer and will not be a "disqualified benefit" within the meaning of section 4976(b)(1)(C) of the Code.

Accordingly, we rule as follows:

1. The transfer of the surplus into the Trust will not adversely affect the tax-exempt status of the Trust.
2. The transfer of the surplus from the Medical Plan to the Trust will not be subject to the excise tax under section 4976 of the Code.

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.

Pursuant to a Power of Attorney on file in this office, a copy of this letter is being sent to Trust's authorized representative. A copy of this letter should be kept in Trust's permanent records.

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

Sincerely,

(signed) Robert C. Harper, Jr.

Robert Harper, Jr.
Manager, Exempt Organizations
Technical Group 3