Internal Revenue Service -- Private Letter Ruling
Number: 8925603

Section 3121 -- Social Security Definitions

Publication Date: June 23, 1989

3121.00-00
Definitions

Employees .......................... 3121.04-00
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March 23, 1989

LEGEND:
Insured = ** **
TIN = ** **
Program = ** ** Dear ** **

This is in response to your ruling request dated November 1
1988, submitted on behalf of Insurer, in which rulings we
requested concerning the federal employment tax status of insurers
salespersons under a new program to be instituted by Insurer.

Insurer, which is engaged in the business of underwriting
various types of insurance, intends to change the status of
substantially all of its sales force under a new Agent group
(the 'Program'). Insurer has determined that both its profits and
the income of its agents could be increased if they are given an
opportunity to (1) operate independent businesses virtually free
any direction from Insurer, (2) have a more direct stake in profits and losses attributable to their personal efforts, and (3)
build an economic interest in their customer accounts. Insurer has
further determined that making its agents fully independent will
enable it to compete more effectively with other major companies
in the insurance industry when recruiting and retaining the services
of the most talented agents. The concepts underlying the Program
respond to these concerns.

The Program will begin with an employee phase that will last
for a full months. During this period it is proposed that no
agents will serve as employees of Insurer and be trained by Insurer
to run independent insurance agencies. While employees, the agent
will be supervised and controlled by Insurer in their daily
activities and compensated in a manner that is intended to tie them over until they can be established as independent agents.

Those agents who successfully complete the employee phase of the Program and show outstanding entrepreneurial abilities will be
offered the opportunity to participate in the independent contractor phase of the Program. Agents in the independent
contractor phase will be free to run their agencies in virtually any manner they choose with no direction from Insurer. Qualifying present agents may enter the Program at their own election. Substantially all future agents will be required to enter the Program upon affiliation with Insurer. Current agents who have shown an ability to operate independently will be allowed to participate in the Program without having to complete the employee phase. Details of the Program are as described below. THE EMPLOYEE PHASE.

Agents in the employee phase of the Program will enter into employment agreements with Insurer under which they agree to solicit the purchase of insurance, notes, and other financial-related products as agents of Insurer in the state or states in which they are appointed, provided they comply with the applicable state licensing requirements. They will be contractually required to perform such services subject to Insurer’s supervision, direction, and control during the employee phase. During this phase they will be contractually precluded from working for competitors of Insurer and for companies outside the insurance industry.

Agents during the employee phase will be required to participate in a structured orientation program and attend, actively participate in, and complete all courses seminars, tests, and other training activities sponsored by Insurer. They will work closely with management to develop their product knowledge and sales skills and management will formally evaluate their progress. Agents will be required to maintain detailed records of their sales activities and these reports will serve as a basis for discussion during their meetings with management. In order to ensure that the agents devote their full business time to Insurer, gain sufficient experience, and develop proper sales skills, they will be required to sell a minimum amount of insurance. Agents may be dismissed from employment if they do not meet these quotas. The agents will be expected to work an average of 35 hours per week during their first 10 weeks of employment and continue to work on a full-time basis thereafter for the remainder of the employee phase.

Agents will receive a fixed salary, plus overtime, during the first 10 weeks of the employee phase. For the remaining portion of the employee phase the agents will have a guaranteed salary. In lieu of the guarantee, agents will be eligible to receive a monthly fee if such amount exceeds the guarantee. The monthly fee will resemble a commission in that it generally will be computed as a specified percentage of the new and certain renewal premiums that an agent was responsible for during the previous month. The agents will also be entitled to certain employee fringe benefits as well as vacation leave.

In general, Insurer will either pay directly or reimburse substantially the office-related expenses incurred by agents during the employee phase, as long as such expenses are reasonable. Moreover, Insurer will pay directly or reimburse the agents for their reasonable travel expenses incurred while away from home on business trips required by Insurer.

Insurer will select the office location of a particular agent.
during the employee phase based on market conditions, the availability of office space in his or her geographic region, and the office locations of existing agents. It will also prescribe the hours during which an agent's office must be kept open. Insurer will reserve the right to relocate agents to other office sites during this period. It is anticipated that the agents will use their own names and Insurer's in operating their agencies. Insurer will have the right to approve signs and other materials that contain its name.

Insurer will keep track of all accounts that an agent has written. Under normal circumstances it will not have a unilateral right to transfer these accounts to any other agent. However, Insurer may transfer accounts if an agent is relocated or if a policyholder requests a new agent from Insurer. During the employee phase, Insurer, on occasion, may provide the agents with leads on prospective customers. It may also transfer unrepresented accounts to an agent. It will have the right to require agents to follow up on the leads and handle the unrepresented accounts. An agent will not have an economic interest in his or her customer accounts during the employee phase.

The terms, prices, and conditions of the insurance, notes, and other financial-related products offered by Insurer will remain within Insurer's control, subject to regulatory approval. Similarly, all insurance contracts solicited by agents will be subject to approval by Insurer. Insurer will provide the agents with forms, questionnaires, and promotional materials, as well as manuals, bulletins, and other resources necessary for the agents to function as representatives of Insurer. An agent may supplement the advertising provided by Insurer and direct public attention to his or her particular agency. However, all such advertising by an agent during the employee phase will be subject to Insurer's prior approval, regardless of whether the promotional material contains Insurer's name.

An agent's employment contract with Insurer will automatically terminate at the end of a month. It will also be terminable at will by either Insurer or the agent at any time during this phase. Upon termination, an agent will be entitled to receive his or her guarantee or monthly fee (whichever is greater) earned up to the termination date and certain employee benefits determined in accordance with Insurer's employee benefit plans. THE INDEPENDENT CONTRACTOR PHASE

Agents who successfully complete the employee phase of the program may enter into independent contractor arrangements with Insurer under contracts that establish the basic framework of their relationships. The agents will solicit insurance, notes, and other financial-related products on behalf of Insurer in the state or states that they are both appointed to represent Insurer and properly licensed during the independent contractor ('IC') phase of the Program, just as they will do during the employee phase. However, the contracts will stipulate that agents in the IC phase will be free of IC's direction, supervision, and control and permitted to perform their services in virtually any manner they
deem appropriate. (They will also be allowed to work for other companies as long as they do not sell insurance products of Insurer's competitors without Insurer's consent.)

Agents will not be trained by Insurer during the IC phase although Insurer may send them educational literature and invite them to voluntarily sit sales seminars and advanced education programs. Agents will be free to run their agencies according to their own professional judgment. They generally will have complete control over the hours they work and the hours during which their offices remain open. No reports will be required of the agent except for remittance reports used to transmit premiums and other funds they receive that belong to Insurer. Insurer will not impose minimum production requirements on the agents during the IC phase.

Unlike the employee phase, an agent in the IC phase will not receive any guarantee or minimum amount of compensation. Rather, all the agent's remuneration will consist of commissions equal to a specified percentage of new or renewal premiums attributable to his or her customer accounts and other forms of compensation also based solely upon the agent's productivity (such as bonuses and prizes). Insurer will not provide the agents with fringe benefits. Agents may take vacations when they choose.

Agents will be free to select any location that they desire for an office site subject to Insurer's approval. It is expected that many agents who complete the employee phase will simply retain their office location during the IC phase. Once a site is selected, Insurer will reserve no right to relocate the agent. Like the employee phase, it is expected that the agents will use their own names and Insurer's in operating their agencies. Unlike the employee phase, agents will be allowed to supplement Insurer's advertising without getting approval from Insurer. Only advertising that contains Insurer's name must be approved by Insurer.

Insurer will not pay any agent expenses nor will it have a reimbursement arrangement during the IC phase of the Program. Agents will be responsible for all their expenses during this period including the purchase price of rental of their offices. Agents will have the discretion to hire secretaries and solicitors (as well as any other support workers) and will be free to determine their own policies regarding the binding authority granted to their solicitors. Insurer will have no input into hiring and firing decisions and agents will have full responsibility for establishing wage levels for their employees.

Participating agents in the employee phase, along with existing agents who elect into the Program, will retain their customer accounts when they enter the IC phase. Like the employee phase Insurer may provide leads to an agent or offer to transfer unrepresented accounts. However, Insurer will have no right to require an agent to follow up on such leads or handle such unrepresented accounts. Agents in the IC phase will have an economic interest in their customer accounts. They will be able to realize such interest upon termination of their relationships with Insurer through either (1) consideration from a third party in the case of a sale or transfer of their businesses or (2) the receipt
of termination payments from Insurer based on a formula structured to yield the fair market value of their accounts.

In the IC phase agent contracts will not be terminable at will. Rather, they will normally only be terminated by either party upon 30 days prior written notice to the other. To protect its reputation, Insurer reserves the right to stop an agent from selling insurance during this period although the agent will still be entitled to commissions for the duration of the 30 days. The agent contracts may also be terminated (1) at any time by mutual agreement of the parties, (2) immediately for cause, or (3) upon the death or permanent disability of the agent.

Unless an agent sells his or her agency to a third party that has been approved by Insurer, the agent (or his or her legal representative in the event of death) will receive termination payments from Insurer. The amount of such payments will be designed to approximate the fair market value of the agent’s accounts procured during either phase of the program and intended to compensate the agent for relinquishing his or her economic interest in such accounts. LAW AND RATIONALE

An individual is an employee for federal employment tax purposes if that individual has the status of employee under the usual common law rules for determining whether an employer-employee relationship exists. Guides for determining that status are set forth in three substantially similar sections of the employment tax regulations, namely, sections 31.3121(d)-1, 31.3306(f)-1, and 31.3401(c)-1. The regulations provide that generally the relationship of employer and employee exists when the person for whom the services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which the result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed, it is sufficient if the employer has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than employer and employee, such as independent contractor, is immaterial.

There are 20 common law factors that the courts and the Internal Revenue Service generally consider in determining whether sufficient control is present to establish an employer-employee relationship. No single factor is dispositive of the issue. See Rev. Rul. 87-41, 1987-1 C.B. 296.

Rev. Rul. 69-288, 1969-1 C.B. 258, presents the question whether the agents of a life insurance company are employees or
independent contractors. The company enters into a contract with a
general agent giving the agent the exclusive right to solicit
applications for insurance and annuity contracts within a specified
territory. The company has a large number of general agencies, each
one of which maintains an office at his own expense and is
compensated by commissions and collection fees based on a fixed
percentage of insurance premiums. The general agent contracts with
district agents and special agents for development of various parts
of the territory. All insurance matters, including insurance
applications and premium collections, relating to the territory of
each general agent pass through the agent's office. The agent's
contracts do not permit the company to prescribe rules governing
the development of clientele or the time or place of solicitation,
or otherwise control the physical activities of the agent. The
agents can come and go as they please and are not required to spend
a fixed amount of time working for the company. The company neither
furnishes or controls the means of transportation nor pays for the
means used by the agent. It has no right to dictate whether an
agent advertises, but it has a right to review the advertising copy
before it is released. Rev. Rul. 69-280 concludes that the company
does not exercise, or have the right to exercise, the amount of
control necessary to establish an employer-employee relationship
under the common law rules.

Our application of the common law factors to the employee
phase of the Program clearly indicates that the agents will be
subject to sufficient control by Insurer to be considered employees
of Insurer during this period. Insurer will require the agents to
participate in a structured orientation program, attend sales
meetings, work minimum hours, and meet specified sales quotas. It
will pay the agents a guaranteed level of wages, provide a variety
of employee benefits, and reimburse them for all or a substantial
portion of their business expenses. Insurer will supervise and
exercise direct control over them in the details of their office
operations. Agents will be subject to frequent performance reviews
and possible termination by Insurer. They will not have an economic
interest in their customer accounts.

By contrast, application of the common law factors to the IC
phase indicates that the agents will not be subject to the
required control to be considered employees. (Operation of the
agents' offices will be left to their professional judgment. They
will not be subject to Insurer's supervision or review, nor will
they be required to attend meetings or meet quotas.) Their
soliciting services need not be performed personally. Their sole
form of remuneration will be commissions (or secondary forms of
remuneration also geared to productivity) and they will have an
opportunity to build an economic interest in their customer
accounts. They will not receive any employee benefits from Insurer
and they will not be reimbursed for any expenses incurred in the
operations of their agencies. They may solicit for other companies
if they do not sell the products of Insurer's competitors without
its consent. RULINGS

Accordingly, based on the accompanying documents and the
representations made concerning the Program, we conclude that individuals who sell insurance products for Insurer under the Program will be employees of Insurer during the employee phase for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and federal income tax withholding. However, those individuals who sell insurance during the IC phase will be independent contractors rather than employees.

No opinion is expressed on the federal tax consequences of the above arrangement under any other section of the Internal Revenue Code.

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

Sincerely,

James L. Brokaw
Chief, Branch 5
Office of the Assistant
Chief Counsel
(Employee Benefits and Exempt Organizations)
Enclosure:
Copy for section 6110 purposes
Dear Mr. [Redacted]

The enclosed background file documents for private letter ruling 8925018 are in response to your request for documents under section 6110 of the Internal Revenue Code.

We have made the deletions to the background file documents required by section 6110(c) of the Code. The documents listed below are exempt from disclosure and have been withheld in their entirety:

Exhibits A, B, C & D

Please contact the person indicated above if you have any questions regarding the disclosure of these background file documents.

Assistant Chief Counsel (Corporate)

By [Signature]

T. Wayne Thomas
Chief, Technical Services Staff

Enclosures
November 15, 1988

Internal Revenue Service
Room 6561
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Re: Request for Rulings on Status of "Agents" for Federal Tax Purposes

Gentlemen:

Enclosed is a ruling request that individuals who will sell insurance as "Agents" under a program to be instituted by (the "Company") will be treated as employees during the employee phase of the program and as independent contractors during the independent contractor phase of the program for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act and the Collection of Income Tax at Source on Wages under Chapters 21, 23 and 24, respectively, of Subtitle C of the Internal Revenue Code of 1986. Also enclosed are the contracts that will be used in connection with the Agent program, appropriate powers of attorney, a $400 check payable to the Internal Revenue Service to cover the user fee applicable to this ruling request and all other information (including the deletions statement) required by Rev. Proc. 88-1, 1988-1 C.B. 7.
DECLARATION BY TAXPAYER

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of the requested ruling are true, correct and complete.
Re: Request for Rulings on Status of "Agents" for Federal Tax Purposes

Gentlemen:

Rulings are hereby requested that individuals who will sell insurance as "Agents" under a new program to be instituted by (the "Company") will qualify as "employees" during the employee phase of the program and as "independent contractors" during the independent contractor phase of the program for purposes of the Federal Insurance Contributions Act ("FICA"), the Federal Unemployment Tax Act ("FUTA") and the Collection of Income Tax at Source on Wages under Chapters 21, 23 and 24, respectively, of Subtitle C of the Internal Revenue Code of 1986 (the "Code").

As a brief background, the Company intends to convert substantially all of its sales force (currently about
individuals) into Agents. Qualified present agents of the Company will be given the opportunity to convert to Agent status beginning after. They will not, however, be required to convert and may instead continue in their present relationships with the Company. Substantially all new agents who become affiliated with the Company after however, will be expected to enter the Agent program.

The Agent program will feature each agent as an entrepreneur who will be in full control of his or her selling activities and whose profit or loss will be fully dependent on his or her own efforts. To position the new type of agent in this concept with the tools and knowledge to be successful and the resources to operate independently will require a training phase which, for each agent, will last for full months -- the "employee phase" of the program. After this training period, the agent will be
expected to function as an entrepreneur throughout the balance of his or her relationship with the Company -- the "independent contractor phase" of the program.

Rulings Requested

The following rulings are respectfully requested with respect to the above referenced Agent program:

(1) Individuals participating in the employee phase of the Agent program will qualify as employees of FICA, FUTA and income tax withholding purposes.

(2) Individuals participating in the independent contractor phase of the Agent program will qualify as independent contractors for FICA, FUTA and income tax withholding purposes.

Discussion

For your convenience, the balance of this ruling request is divided into five parts. Part I provides a general overview of the Company's present operations, its existing sales force and the motivating forces underlying the Agent Program. Part II explains the Agent program in detail. Part III contains an analysis of the pertinent legal authorities. Part IV applies the principles contained in the legal authorities in support of the rulings requested. Finally, Part V contains certain technical information and
statements required to be included in this ruling request by Revenue Procedure 88-1, 1988-1 C.B. 7.

Part I

General Overview
Motivating Forces Underlying the Agent Program.

has concluded that both its profits and the income of its agents could be increased if they are given the opportunity to (1) operate independent businesses virtually free of any direction from (2) have a more direct stake in the profits and losses attributable to their personal efforts and (3) build an economic interest in their customer accounts.
further concluded that making its agents fully independent in this manner will enable it to compete more effectively with companies in the insurance industry when recruiting and retaining the services of the most talented agents since competitors currently have programs in force which allow their agents to operate independently.

The concepts underlying the new Agent program respond to these concerns. The program is intended to allow agents to exercise their own professional judgment in running their agencies without any supervision by it is also designed to establish a more direct link between an agent's productivity and his or her opportunities for profit and risks of loss, while allowing the agent to build an economic interest in his or her customer accounts. By making these changes to the sales force, the Agent program is expected to instill an entrepreneurial spirit in agents which, in turn, should increase their productivity.

To accomplish these goals -- while at the same time ensuring that agents who are given the opportunity to operate independent businesses have the skills, abilities and resources to do so -- the Agent program will begin with an employee phase which will last for
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During this period, new Agents will serve as employees of independent insurance agencies. While employees, the Agents will be supervised and controlled by in their daily activities and compensated in a manner which is intended to tide them over until they can become established as independent agents.

Those Agents who successfully complete the employee phase of the program and show outstanding entrepreneurial abilities will be offered the opportunity to participate in the independent contractor phase of the program. It is during this second phase that the concepts motivating the Agent program will take effect. Agents in the independent contractor phase will be free to run their agencies in virtually any manner they choose with no direction from . Moreover, their compensation will be based solely upon their productivity, they will have all risks of loss associated with their activities and they will be able to build economic interests in their customer accounts.

Current agents who have shown an ability to operate independently will be allowed to elect to become Agents beginning after , without having to
complete the employee phase of the program. As indicated above, a current agent's choice to become an Agent will be completely voluntary.

Part II

Detailed Description of the Agent Program

The Agent program is described in detail below. The discussion is divided between the employee phase
The Employee Phase

Written Contracts. Each Agent in the employee phase of the program will enter into a Agent Employment Agreement.

These contracts,

will establish the basic framework of the relationship between the parties during the employee phase of the program.

Services for . Under the contracts, the Agents will solicit the purchase of insurance, as agents of and provide services to persons insured by in the state or states in which they are appointed, provided they comply with
the applicable state’s licensing requirements. The Agents will be contractually required to perform such services subject to supervision, direction and control during the employee phase of the program.

Services for Others. The Agents will be contractually required to devote their entire business time to the performance of the above-described services for Thus, they will be precluded by contract from working for both competitors of and companies outside of the insurance industry during the employee phase of the program.

Training. Agents will be required to participate in a structured orientation program prescribed by This will familiarize them with the nature of business, the Agent program itself, the insurance, the premiums and other charges for these products and rules governing the binding, acceptance, renewal, rejection or cancellation of risks and the adjustment and payment of losses. Agents will also be trained during the employee phase of the program to sell insurance and operate a business utilizing methods which deems advisable. They will be required to attend, actively
participate in and complete all courses, seminars, tests and
other training activities required by

Hours. Agents will be full-time employees
doing the employee phase of the program.

**Supervision.** Each agent will work closely
with management during the employee phase of the
program to develop his or her product knowledge and sales
skills. Agents will also receive on-the-job sales
demonstrations, instructions as to time management and periodic
feedback from an agent manager during this period.

**Mandatory meetings between the**
agents and management will normally be scheduled on a
quarterly basis. During these sessions, the agent
will discuss in detail with an agent manager his or her
marketing strategies, sales techniques and other business
development matters. The agent manager will provide the
agent with constructive criticism and feedback in
each of these areas, and instruct the agent in detail
as to the steps to take to improve his or her sales levels over
the remainder of the employee phase of the program.
Agents will be expected to follow these instructions and may be
disciplined or terminated for failing to do so. In addition to
the periodic meetings, Agents in the
employee phase of the program will also receive in-depth
formal evaluations from management.

Reports. Agents will be required to
maintain detailed records of their sales activities during the
employee phase of the program. These reports will be used for
discussion purposes during their numerous meetings with
management. The managers will review and
interpret the reports as part of the process of providing the
Agents with feedback and instructing them as to the
actions to take to improve their sales levels over the
remainder of the employee phase of the program. Remittance
reports used to transmit premiums and other funds received by
the Agents which belong to will also be
required during this period.

Meetings. Agents will be required to
attend all meetings called by
phase of the program.
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Quotas. In order to ensure that the Agents devote their full business time to gain sufficient experience and develop proper sales skills, they will be required to sell a minimum amount of insurance.

The quotas will be developed jointly by the Agents and their managers. Agents may be terminated for failing to meet their quotas.

Terms of Policies, Acceptance of Risks. The terms, prices and conditions of the insurance offered by will remain within control, subject to regulatory approval. Similarly, all insurance contracts solicited by Agents will be subject to approval by

Forms. will provide forms and questionnaires for use in obtaining information from potential customers and for the issuance of insurance policies. will also provide certain promotional materials (brochures, etc.), as well as all manuals, bulletins and other resources necessary for the Agents to function as representatives of
guaranteed salary,

In lieu of the
guarantee, however, Agents will be eligible to receive a monthly fee if such amount exceeds the guarantee. Like a commission, the monthly fee will generally be computed as a specified percentage of the new and certain renewal premiums which an Agent was responsible for during the previous month. Accordingly, it will vary from month to
Example. John, an Agent in the employee phase of the program, has a guaranteed salary of $ per month and his monthly fee is $ for the month of June (based upon John's productivity in May). Since John's guarantee exceeds his monthly fee for June, he will receive the guaranteed $ as his June salary. If John's monthly fee for the month of July is $ (based upon his productivity in June), however, he will receive the $ as his July salary since such amount exceeds the guarantee.

Expenses.
agents will be reimbursed by for their office-related
expenses in accordance with a prescribed
They will also be entitled to reimbursements for all of their reasonable
tavel expenses incurred while away from home on business trips
required by
Employee Benefits. Agents will be entitled to participate in employee benefits packages during the employee phase of the program.
Vacation. Agents will be entitled to weeks paid vacation per year during the employee phase of the program.

Offices.

will decide on the office location of a particular Agent during the employee phase of the program based upon market conditions, the availability of office space in his or her geographic region and the office locations of existing agents. It will also prescribe the hours during which an Agent's office must be kept open for business during the employee phase. Finally, will reserve the right to relocate Agents to other office sites during this period.
The offices (wherever located) will serve as bases from which the Agents will operate. A substantial portion of their activities, however, may be conducted at other locations, such as the homes of prospective customers.

**Name of Operation.** It is anticipated that the Agents will use their own names and in operating their agencies, will have the right to approve signs and any other materials which contain its name.

**Customer Accounts.** will keep track of all accounts which an Agent has written. An "account" will consist of the name of the policyholder

With respect to these accounts, the Agent will be the Agent will not have a unilateral right to transfer these accounts to any other agent while the employment contract is in effect under normal circumstances. Accounts may, however, be transferred if the Agent is relocated.

the policyholder makes an affirmative request to for a new agent.

Significantly, an Agent will not have an economic interest in his or her customer accounts during the
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employee phase of the program. Thus, if the Agent's relationship with ends, he or she will receive nothing of value for them. However, building and retaining accounts will still be important to Agents during the employee phase since their monthly fees will be based, in part, on certain renewal premiums attributable to their accounts (see pages 16-17). Moreover, an Agent who enters the independent contractor phase of the program will retain his or her customer accounts earned during the employee phase and begin building an economic interest in them which can be realized at a later date.  

**Leads and Unrepresented Accounts.** Agents may, on occasion, provide Agents with leads on prospective customers. It may also, on occasion, transfer unrepresented accounts to an Agent will have the right to require the Agents to follow up on the leads and handle the unrepresented accounts during the employee phase of the program.  

**Personnel.** Agents are generally expected to utilize the services of secretaries and solicitors during the employee phase of the program. They will not, however, be allowed to employ such persons directly,
any solicitor utilized by an Agent during the employee phase of the program will not be allowed to have any binding authority, except in limited circumstances prescribed by Advertising.

An Agent may supplement this advertising and direct public attention to his or her particular agency. However, all such advertising by an Agent during the employee phase of the program will be subject to prior approval, regardless of whether the promotional material contains name.
Sale of Agency. As indicated above, Agents will have no economic interests in their customer accounts during the employee phase of the program. Thus, any attempt by an Agent to sell his or her agency during this period would be both ineffective and meaningless.

Termination. An Agent's employment contract will automatically terminate at the end of the employee phase of the program. Upon termination, an Agent will be entitled to receive his or her guarantee or monthly fee (whichever is greater).

The Agent may also be eligible for certain employee benefits determined in accordance with the provisions of employee benefit plans.

Agents who continue in their relationships with as independent contractors will also be entitled to the conversion bonuses described on page 30.)
The Independent Contractor Phase

Written Contracts. An Agent who successfully completes the employee phase of the program described above may enter into an independent contractor arrangement with a "Agency Agreement."

These contracts,

and will establish the basic framework of the relationship between the parties during the independent contractor phase of the program.

Services for The Agents will solicit insurance,
on behalf of in the state or states in which they are both appointed to represent and properly licensed during the independent contractor phase of the program, just as they will do during the employee phase. However, the contracts
will stipulate that Agents in the independent contractor phase will be free of direction, supervision and control and permitted to perform their services in virtually any manner they deem appropriate.

Services for Others. Agents will be allowed to work for other companies during the independent contractor phase of the program. However, they will be precluded from selling insurance products of competitors of without prior consent.

Training. Agents will not be trained by during the independent contractor phase of the program. may, however, send educational literature to the Agents and "invite" them to attend sales seminars and advanced educational programs, but will not require attendance, nor will it penalize them in any way for failing to participate.

Hours. Agents will have complete control over the hours which they work and the hours during which their offices are kept open to the public for business. They will, however, be required to remain "actively involved" in the operations of their offices.
Supervision. As noted above, the principal purpose of the Agent program is to provide increased incentives to agents by allowing them to operate as entrepreneurs. Accordingly, Agents will be free to run their agencies according to their own professional judgment. A new management position will be established to coordinate the program. These managers will be available to
the Agents as a resource for consultation and advice during the independent contractor phase of the program, but the Agents will not be required to follow any advice which may be given.

**Reports.** No reports of any kind will be required or expected of Agents during the independent contractor phase of the program, except for remittance reports used to transmit premiums and other funds received by the Agents which belong to

**Meetings.** Agents may be "invited" to attend meetings called by during the independent contractor phase, but they will not be required to attend, nor will they be penalized for any absences.

**Quotas.** will not impose any minimum production requirements on Agents during the independent contractor phase of the program.

**Terms of Policies, Acceptance of Risks.** Like the employee phase of the program, the terms, prices and conditions of the insurance, offered by during the independent contractor phase will remain within control, subject to regulatory
approval. Similarly, all insurance contracts solicited by Agents will be subject to approval by

Forms. Like the employee phase of the program, will provide forms and questionnaires for use in obtaining information from potential customers and for the issuance of insurance policies during the independent contractor phase. will also provide certain promotional materials (brochures, etc.), as well as all manuals, bulletins and other resources necessary for the Agents to function as representatives of during this period.

Compensation. Unlike the employee phase of the program, an Agent in the independent contractor phase will not receive any guarantee or minimum amount of compensation. Rather, all of the remuneration during the independent contractor phase will consist of commissions equal to a specified percentage of new or renewal premiums attributable to his or her customer accounts and other forms of compensation also based solely upon the Agent's productivity (such as bonuses and prizes).
Agents who successfully complete the employee phase of the program and thereupon enter the independent contractor phase will also receive a one-time conversion bonus.

Expenses. will not pay any of an Agent's expenses, nor will it have a reimbursement arrangement... during the independent contractor phase of the program. Rather, an Agent will be responsible for the payment of all expenses incurred in the operation of his or her agency during this period. such expenses will include either the purchase price or rental cost of his or her office.

Other expenses which will be the sole responsibility of the Agent include transportation costs, licensing fees, costs for furniture and equipment (typewriters, file cabinets, etc.)
payroll costs for persons hired by the Agent.
utilities, postage and telephone charges.

**Employee Benefits.** Agents will not be provided by with any employee benefits for services performed during the independent contractor phase of the program.

**Vacation.** Agents in the independent contractor phase will be entirely on their own with respect to working hours. Accordingly, they may take such vacations from time to time as they, at their sole option, may choose to take.

**Offices.** Agents will be free to select any location which they desire for an office site, subject to approval. reserves this right in order to ensure that the office locations of its agents do not unduly infringe upon each other.
It is expected that many of the Agents who complete the employee phase of the program will simply retain their office locations during the independent contractor phase. They will not, however, be required to do so. Once the Agent obtains an office site during the independent contractor phase, will reserve no power to relocate the Agent.

Finally, like the employee phase of the program, all Agents may be expected to conduct a substantial portion of their businesses away from their offices, such as at the homes of prospective insureds. Unlike the employee phase, however, the decisions as to when, where and how to sell insurance will be left solely to the discretion of the Agents during the independent contractor phase.
Name of Operation. Like the employee phase of the program, it is anticipated that the Agents in the independent contractor phase will use their own names and in operating their agencies. will have the right to approve signs and any other materials which contain its name.

Customer Accounts. Like the employee phase of the program, Agents in the independent contractor phase will be credited by with the accounts they produce (see pages 21-22). Unlike the employee phase, however, Agents in the independent contractor phase will have an economic interest in their customer accounts. They will be able to realize such interest upon the termination of their relationships with through either (1) consideration from a third party in the case of a sale or transfer of their businesses (see page 36) or (2) the receipt of termination payments from based on a formula structured to yield the fair market value of their accounts (see pages 37-38).

As indicated above, Agents who participate in the employee phase of the program will retain their customer accounts when they enter the independent contractor phase. Likewise, existing agents who elect to convert into the independent contractor phase of the program will take their
agents with them. Finally, Agents who become affiliated with another Agent’s business will succeed to the customer accounts of the seller.

**Leads and Unrepresented Accounts.** Like the employee phase of the program, may, on occasion, provide Agents in the independent contractor phase with leads on prospective customers. may also offer to transfer unrepresented accounts to an independent Agent from time to time. Unlike the employee phase of the program, however, will have no right to require an Agent in the independent contractor phase to follow up on such leads or handle such unrepresented accounts. Presumably, an independent Agent, in the interest of promoting his or her business, would usually do so anyways, but the determination as to how, when and even whether to follow up on a particular lead or handle a particular account will be left entirely to the Agent’s discretion.

**Personnel.** The Agents in the independent contractor phase of the program will be allowed to engage the services of secretaries and solicitors (as well as any other support workers). Unlike the employee phase,
phase may enter into employer-employee relationships or other arrangements with such individuals in their sole discretion. Moreover, unlike the employee phase, Agents in the independent contractor phase will be free to determine their own policies regarding the binding authority granted to their solicitors.

Whatever arrangements are made, an Agent's personnel during the independent contractor phase will be his or her sole responsibility. will have no input into hiring or firing decisions or into any decisions relating to work assignments or duties. Moreover, each Agent will have full responsibility for establishing the wage levels of his or her employees and all employment tax and income tax withholding matters.

Advertising. Like an employee phase of the program, Agents in the independent contractor phase may supplement advertising in order to direct public attention to their particular agencies.

Unlike the employee phase, however, Agents in the independent contractor phase will not be required to get prior approval for all of their advertising. Rather, only advertising which contains name must be
preapproved by This is necessary in order for
to protect its own reputation and insulate itself
against possible legal claims based upon such advertising.

Sale of Agency. Agents will be allowed to
sell their businesses (including their economic interests in
their customer accounts) at any time, provided the
buyer is approved by in its sole discretion. In the
event fails to approve a willing purchaser, the
termination provisions of the contract will apply. As
indicated below, the termination provisions will require
to purchase the Agent's economic interest in
his or her accounts at a formula amount intended to yield their
fair market value.
Termination. Unlike the employee phase of the program, the Agent contracts will not be terminable at will during the independent contractor phase. Rather, they will normally only be terminated by either party upon prior written notice to the other. 

The right to stop an Agent from selling insurance sooner, however, in order to protect itself from those Agents who it believes would otherwise damage its goodwill or customer relations after receiving (or giving) the notice. Significantly, if exercises this acceleration right, the Agent will still be entitled to commissions for the duration of the period. The Agent contracts may also be terminated (1) at any time by mutual agreement of the parties, (2) immediately for cause, (3) upon the death or permanent disability of the Agent.

Unless an Agent sells his or her agency to a third party that has been approved by the Agent (or his or her legal representative in the event of death) will receive in the form of termination payments from
These termination payments are designed to approximate the fair market value of the Agent's accounts procured during either phase of the program and intended to compensate the Agent for relinquishing his or her economic interest in such accounts to

Part III
Legal Analysis

General Rules for Determining Whether an Insurance Agent is an Employee or Independent Contractor

The Code and Regulations. Section 3121(d)(2) of the Code defines an "employee" for FICA purposes to include:

any individual who, under the usual common law rules applicable in determining the
employer-employee relationship, has the status of an employee.

Section 3306(i) of the Code provides the same common law test when classifying workers for FUTA purposes and Treasury Regulation Section 31.3401(c)-1(a) establishes essentially the same standard for applying the Federal income tax withholding rules.

Regulations under FICA expand on when a common law employer-employee relationship exists:

Generally such [a] relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the
result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common law rules. . . . (Treas. Reg. § 31.3121(d)-1(c))

Again, the regulations for FUTA and Federal income tax withholding purposes are substantially identical. (Treas. Reg. §§ 31.3306(i)-1(b) and 31.3401(c)-1(b))

Cases and Rulings. Both the courts and the Service have uniformly stated that the determination of whether an insurance agent is an employee or independent contractor must be made on the basis of all of the facts and circumstances pertaining to the relationship between the parties. (Atlantic Coast Life Ins. Co. v. United States, 76 F. Supp. 627 (E.D.S.C. 1948); Rev. Rul. 58-176, 1958-1 C.B. 349) Consistent with the above regulations, however, the authorities have usually identified the right on the part of the insurer to control the details of an agent's methods of operation as the most important factor in determining his or her status. The retention of this right by the insurer reflects an employer-employee relationship, whereas the relinquishment of such right to the agent shows an independent contractor status. (Capital Life & Health Ins. Co. v. Bowers, 186 F. 2d 943 (4th Cir. 1951); Rev. Rul. 59-103, 1959-1 C.B. 259)
Factors taken into consideration by the courts and Service when determining whether the requisite control exists which are relevant to the present situation include the following:

-- **Training.** The right on the part of the insurer to train the agent shows control. ([M.F.A. Mutual Insurance Company v. United States, 314 F.2d 530 (W.D. Mo. 1962)](https://www.justia.com/cases/federal/app/8thcircuit/314/530/))

-- **Hours.** The right on the part of the insurer to require the agent to work full-time or a set number of hours shows control. ([Rev. Rul. 69-287, 1969-1 C.B. 257](https://www.irs.gov/pub/irs-rua/r690287.pdf))

-- **Supervision.** The right on the part of the insurer to supervise and direct the agent as to the time, place and manner of selling insurance shows control. ([Kershner v. Commissioner, 14 T.C. 168 (1950)](https://www.irs.gov/pub/irs-ord/14TC168.pdf))

-- **Reports.** The right on the part of the insurer to require the agent to submit detailed reports reflecting his or her sales activities shows control. ([Rev. Rul. 58-178, 1958-1 C.B. 349](https://www.irs.gov/pub/irs-rua/r580178.pdf))

-- **Mandatory Attendance at Meetings.** The right on the part of the insurer to require the agent to attend scheduled meetings shows control. ([Ellison v. Commissioner, 55 T.C. 142 (1970)](https://www.irs.gov/pub/irs-ord/55TC142.pdf))

-- **Quotas.** The right on the part of the insurer to impose sales quotas on the agent shows control. ([Zipser v. Ewing, 197 F.2d 728 (2nd Cir. 1952)](https://www.courts.state.wi.us/opinions/opinions/197fla728.htm))

-- **Discharge.** The right on the part of the insurer to discharge the agent at will shows control. ([Rev. Rul. 58-177, 1958-1 C.B. 351](https://www.irs.gov/pub/irs-rua/r580177.pdf))

Obviously, the more control factors which are present in a relationship, the more likely the agent will be treated as an employee, rather than an independent contractor.
Other factors unrelated to control which have been
given considerable weight by the courts and Service typically
involve the financial aspects of the relationship between the
insurer and agent. The relevant financial factors may be
summarized as follows:

-- **Compensation.** The payment of a fixed salary or
guaranteed amount to the agent which is computed
without regard to the level of business which he
or she generates reflects an employer-employee
relationship. ([Investors Heritage Life Ins. Co.
v. United States, 1979-1 U.S.T.C. ¶ 9216 (E.D.
Ky. 1979)](https://www.courthouse.net) The payment of commissions or other
forms of remuneration based solely upon the
agent's productivity (and determined without
regard to any guaranteed amount) shows an
independent contractor status. ([Rev. Rul.

-- **Expenses.** The direct payment or reimbursement
of an agent's expenses by the insurer reflects an
employer-employee relationship. ([Ellison v.
responsibility on the part of the agent to pay
such expenses without any such reimbursement
shows an independent contractor status. ([Rev.

-- **Employee Benefits.** The provision of employee
benefits to the agent by the insurer reflects an
employer-employee relationship. ([National Labor
Relations Board v. Phoenix Mutual Life Ins. Co.,
167 F.2d 983 (7th Cir. 1948)](https://www.courthouse.net) The absence of
such benefits shows an independent contractor
status. ([Reserve National Insurance Company v.
United States, 1974-1 U.S.T.C. ¶ 9486 (W.D. Okla.
1974)](https://www.courthouse.net))

-- **Economic Interest in Accounts.** The failure on
the part of the insurer to grant the agent an
economic interest in his or her customer accounts
reflects an employer-employee relationship.
(Atlantic Coast Life Ins. Co. v. United States, 76 F.Supp. 527 (E.D.S.C. 1948)) The existence of such an interest by the agent shows an independent contractor status. (Simpson v. Commissioner, 64 T.C. 974 (1975)) This factor manifests itself at the time the arrangement between the agent and insurer terminates. An agent who does not have an economic interest will receive no termination payments intended to compensate the agent for the value of his or her customer accounts. In contrast, an agent who has an economic interest will receive consideration for his or her accounts at the time of termination either through (1) sales proceeds from a buyer of his or her agency or (2) termination payments from the insurer.

Notably, each of the above financial factors is based on the premise that an independent contractor generally has the full opportunity for profit and risk of loss associated with his or her efforts, whereas an employee does not.

Based on the control and financial factors referred to above, the Agents should qualify as employees of during the employee phase of the program and independent contractors during the independent contractor phase of the program. Immediately following is a detailed discussion of two cases which reached such conclusions under circumstances strikingly similar to the present situation.

The Most Relevant Authorities

The two cases are M.F.A. Mutual Insurance Company v. United States, 314 F.2d 590 (W.D. Mo. 1970), and Simpson v.
Commissioner, 64 T.C. 974 (1975). The first case involved insurance agents who participated in a training program substantially similar to the employee phase of the Agent program. The second case concerned an insurance agent who had successfully completed an training program and had become permanently associated with an insurance company under an arrangement substantially similar to the independent contractor phase of the Agent program. Significantly, the M.F.A. Mutual court held that the agents in the training program were employees, whereas the Simpson court found the permanent agent to be an independent contractor. The following discussion analyzes these important cases in their respective order:

In M.F.A. Mutual, the taxpayer ("M.F.A.") had two types of insurance agents. The first type was called a "financed" agent, whereas the second type was referred to as a "regular" agent. M.F.A. treated both types of agents as independent contractors for FICA and FUTA purposes. The Service, however, disputed M.F.A.'s characterization of the financed agents.

The financed agents were participants in a one-year program designed to enable them to become regular agents of M.F.A. The District Court described a financed agent as being
"In the process of training which required that much of his work be done under the direction and supervision of M.F.A." (314 F.Supp. at 599) During this training period, the financed agents were requested to attend training sessions and could be discharged by M.F.A. at will.

The financed agents were also guaranteed a draw during the one-year training period. This was intended to tide them over until they could build up a sufficient amount of business to support themselves solely on a commission basis. Built into the amount of the guaranteed draw by M.F.A. were expenses which the financed agents were expected to incur in running their agencies.

Applying common law principles, the District Court held that the financed agents were employees of M.F.A. As such, M.F.A. was responsible for the payment of certain FICA and FUTA taxes. In so holding, the court stressed that the financed agents were subject to M.F.A.'s control during the training period. The court also emphasized that the existence of the guaranteed draw relieved the financed agents of any substantial risk of loss, calling the guarantee "highly inconsistent with the usual and familiar relationship of independent contractor." (315 F.Supp. at 601)
Significantly, the Service did not challenge M.F.A.'s treatment of its regular agents as independent contractors. These agents had successfully completed the one-year training period described above and had entered into more permanent relationships with M.F.A. In Simpson, however, the status of a post-trainee type of agent was considered.

The Simpson decision involved a taxpayer ('Simpson') who performed services as an insurance agent for the Farmers Insurance Group ('Farmers') from 1958 through 1974. For his first eighteen months of service, Simpson participated in what Farmers called a "Career Trainee Program." Thereafter, he sold insurance as a regular agent of Farmers. The issue before the Tax Court was whether Simpson was in an employer-employee or independent contractor relationship with Farmers for self-employment tax purposes while he served as a regular agent during the 1970 taxable year.

Simpson operated as a regular agent of Farmers during the period in issue under the so-called "buff contract." The buff contract allowed Simpson to set his own hours and determine his own methods for selling insurance. Simpson was not required to send any reports to Farmers, except for the form used to remit to Farmers premiums which he received. Moreover, Simpson was asked, but not required, to attend
meetings held by Farmers. He was, however, prohibited from soliciting insurance for other insurance companies, unless the particular risk was not covered by or acceptable to Farmers.

Simpson was compensated solely by way of commissions under the buff contract. He furnished and paid for his own office, equipment, supplies, license fees, business cards and means of transportation. Advertising costs, however, were split evenly between Simpson and Farmers under a cooperative advertising program. Simpson also employed a secretary at his own expense and on terms which he determined.

Simpson was allowed to sell his agency (including his customer accounts), but only to members of his immediate family who were acceptable to Farmers and only at a price not exceeding a certain formula amount. Alternatively, Farmers itself could repurchase the agency from Simpson upon the termination of the buff contract at a similar formula amount. Farmers had the right to terminate the agreement (1) without cause with three months' prior written notice, (2) with Simpson's consent at any time or (3) immediately in the event Simpson breached the buff contract or engaged in certain criminal or other improper activities.

Based upon these facts, the Tax Court held that Simpson was an independent contractor, rather than an
employee. Accordingly, he was responsible for the payment of self employment taxes. In reaching this conclusion, the Tax Court found it significant that Simpson had control over the details of his activities. The Tax Court rejected the argument that the contractual restrictions on Simpson's ability to sell insurance for other companies somehow diminished this control with the following explanation:

The restriction on the agent's ability to sell insurance for other companies admittedly restricted his freedom to pick and choose, from competing insurance policies, those policies best suited to the interests of his clients. This restriction did not, however, serve to control petitioner with regard to the means or details by which he sold insurance policies. (64 T.C. at 987)

The Tax Court also gave great weight to Simpson's economic interest in his customer accounts as evidenced by the buff contract's termination provisions. It stressed that such an interest showed an independent contractor status with the following explanation:

We concur with [the government] . . . that the concept of an agent acquiring a quasi-property right for which a principal will pay money at the termination of the relationship is inconsistent with an employer-employee relationship. (Id. at 986)
Finally, the Tax Court based its determination that Simpson was an independent contractor, to a lesser degree, on (1) his responsibility for investing in the facilities used for selling insurance, (2) his exposure to risk of loss, (3) the intention of the parties to create an independent contractor relationship and (4) the three months' prior written notice requirement needed to terminate the buff contract in the absence of mutual consent, breach of contract or improper actions.

Part IV

Application of Law to the Agent Program

Based on the control and financial factors present in the relationship between the Agents and during the employee phase of the program and as independent contractors during the independent contractor phase of the program. The proper characterization of the Agents is best illustrated by comparing the major features of their relationship with during the two phases.
During the employee phase of the program, Agents will have the requisite control over the daily activities necessary to establish an employer-employee relationship. Agents will train, supervise and direct them in the details of their operations. It will also require the Agents to participate in a structured orientation program, attend sales meetings and meet specified sales quotas. Agents will be subject to frequent performance reviews during this period and those who do not abide by instructions or perform up to expectations may be terminated at will. Agents in the employee phase of the program will also be compensated in a manner which reflects an employee status. They will be entitled to a guaranteed level of wages, provided with employee benefits and reimbursed for all or a substantial portion of their business expenses. They will not, however, have an economic interest in their customer accounts during this period — a right which would be highly inconsistent with an employer-employee relationship.

In contrast, Agents in the independent contractor phase of the program will not be subject to supervision or review, nor will they be required to follow instructions, attend meetings or meet any
quotas. Rather, the details of their daily activities will be left entirely within the scope of their own professional judgment -- a factor crucial to the finding of an independent contractor status. Agents will also be compensated like independent contractors during this period. Their sole form of remuneration will be commissions (or secondary forms of remuneration also geared to their productivity) and they will have the opportunity to build a valuable economic interest in their customer accounts. They will not, however, receive any employee benefits from , nor will they be reimbursed for any expenses incurred in the operations of their agencies.

In short, the Agents will have all of the opportunities for profit and risks of loss attributable to their personal efforts during the independent contractor phase of the program. Finally, the relationship between and the Agents will normally be terminated only upon prior written notice during this period.

These variations in the control and financial aspects of the relationship between the Agents and during the two phases of the program are virtually identical to the differences in M.F.A. Mutual and Simpson. Moreover, the underlying purpose for each phase of the Agent program is on all fours with such cases. Like the financed
agents in M.F.A. Mutual, the purpose of the Agent program during the employee phase is to train the Agents to operate independently at a future date and to compensate them in a manner that will tide them over until they can become established. Similarly, like the permanent agent in Simpson, the purpose of the Agent program during the independent contractor phase is to allow the Agents to act as entrepreneurs while giving them all of the opportunities for profit and risks of loss attributable to their efforts. Accordingly, M.F.A. Mutual and Simpson are directly on point to support the treatment of the Agents as employees during the employee phase of the program and independent contractors during the independent contractor phase of the program.
Conclusion

Based on the facts and the above legal discussion, the rulings requested that all individuals participating in the employee phase of the Agent program will qualify as employees of and that all individuals participating in the independent contractor phase of the Agent program will qualify as independent contractors for FICA, FUTA and income tax withholding purposes should be granted.

Part V

Required Information

Identical issues

To the best of our knowledge and the knowledge of the taxpayer, an identical issue (1) is not under examination by a District Director in a return of the taxpayer or of a related taxpayer, (2) has not been examined, the statutory period of limitation on either assessment or for filing a claim for refund or credit of tax has not expired, and a closing agreement covering the issue has not been entered into by a District Director, (3) is not under consideration by an Appeals Office in connection with a return of the taxpayer for a prior period, and such issue has not been considered by an Appeals
Office, the statutory period of limitation on either assessment or for filing a claim for refund or credit of tax has not expired, and a closing agreement covering the issue has not been entered into by an Appeals Office, and (4) is not pending in litigation in a case involving the taxpayer or a related taxpayer.

To the best of our knowledge and the knowledge of the taxpayer, an identical or similar issue has not been ruled on by the Service with respect to the taxpayer or a predecessor of the taxpayer, nor has such a ruling ever been requested.
Request for Conference

In the event an adverse decision is indicated with respect to the requested ruling, we respectfully request that a conference be granted.

Appropriate powers of attorney are enclosed.

Respectfully submitted,

Enclosures