recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

(b) A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption.

§ 1.501(c)(8)–1 Fraternal beneficiary societies.

(a) A fraternal beneficiary society is exempt from tax only if operated under the lodge system or for the exclusive benefit of the members so operating. Operating under the lodge system means carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like. In order to be exempt it is also necessary that the society have an established system for the payment to its members or their dependents of life, sick, accident, or other benefits.


§ 1.501(c)(9)–1 Voluntary employees' beneficiary associations, in general.

To be described in section 501(c)(9) an organization must meet all of the following requirements:

(a) The organization is an employees' association,

(b) Membership in the association is voluntary,

(c) The organization provides for the payment of life, sick, accident, or other benefits to its members or their dependents or designated beneficiaries, and substantially all of its operations are in furtherance of providing such benefits, and

(d) No part of the net earnings of the organization inures, other than by payment of the benefits referred to in paragraph (c) of this section, to the benefit of any private shareholder or individual.


§ 1.501(c)(9)–2 Membership in a voluntary employees' beneficiary association; employees; voluntary association of employees.

(a) Membership—(1) In general. The membership of an organization described in section 501(c)(9) must consist of individuals who become entitled to participate by reason of their being employees and whose eligibility for membership is defined by reference to objective standards that constitute an employment-related common bond among such individuals. Typically, those eligible for membership in an organization described in section 501(c)(9) are defined by reference to a common employer (or affiliated employers), to coverage under one or more collective bargaining agreements (with respect to benefits provided by reason of such agreement(s)), to membership in a labor union, or to membership in one or more locals of a national or international labor union. For example, membership in an association might be open to all employees of a particular employer, or to employees in specified job classifications working for certain employers at specified locations and who are entitled to benefits by reason of one or more collective bargaining agreements. In addition, employees of one or more employers engaged in the same line of business in the same geographic locale will be considered to share an employment-related bond for purposes of an organization through which their employers provide benefits. Employees of a labor union also will be considered to share an employment-related common bond with members of the union, and employees of an association will be considered to share an employment-related common bond with members of the association. Whether a
group of individuals is defined by reference to a permissible standard or standards is a question to be determined with regard to all the facts and circumstances, taking into account the guidelines set forth in this paragraph. Exemption will not be denied merely because the membership of an association includes some individuals who are not employees (within the meaning of paragraph (b) of this section), provided that such individuals share an employment-related bond with the employee-members. Such individuals may include, for example, the proprietor of a business whose employees are members of the association. For purposes of the preceding two sentences, an association will be considered to be composed of employees if 90 percent of the total membership of the association on one day of each quarter of the association’s taxable year consists of employees (within the meaning of paragraph (b) of this section).

(2) Restrictions—(i) In general. Eligibility for membership may be restricted by geographic proximity, or by objective conditions or limitations reasonably related to employment, such as a limitation to a reasonable classification of workers, a limitation based on a reasonable minimum period of service, a limitation based on maximum compensation, or a requirement that a member be employed on a full-time basis. Similarly, eligibility for benefits may be restricted by objective conditions relating to the type or amount of benefits offered. Any objective criteria used to restrict eligibility for membership or benefits may not, however, be selected or administered in a manner that limits membership or benefits to officers, shareholders, or highly compensated employees of an employer contributing to or otherwise funding the employees’ association. Similarly, eligibility for benefits may not be subject to conditions or limitations that have the effect of entitling officers, shareholders, or highly compensated employees of an employer contributing to or otherwise funding the employees’ association to benefits that are disproportionate in relation to benefits to which other members of the association are entitled. See §1.501(c)(9)–4(b). Whether the selection or administration of objective conditions has the effect of providing disproportionate benefits to officers, shareholders, or highly compensated employees generally is to be determined on the basis of all the facts and circumstances.

(ii) Generally permissible restrictions or conditions. In general the following restrictions will not be considered to be inconsistent with §1.501(c)(9)–2(a)(2)(i) or §1.501(c)(9)–4(b):

(A) In the case of an employer-funded organization, a provision that excludes or has the effect of excluding from membership in the organization or participation in a particular benefit plan employees who are members of another organization or covered by a different plan, funded or contributed to by the employer, to the extent that such other organization or plan offers similar benefits on comparable terms to the excluded employees.

(B) In the case of an employer-funded organization, a provision that excludes from membership, or limits the type or amount of benefits provided to, individuals who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that the benefit or benefits provided by the organization were the subject of good faith bargaining between such employee representatives and such employer or employers.

(C) Restrictions or conditions on eligibility for membership or benefits that are determined through collective bargaining, by trustees designated pursuant to a collective bargaining agreement, or by the collective bargaining agents of the members of an association or trustees named by such agent or agents.

(D) The allowance of benefits only on condition that a member or recipient contribute to the cost of such benefits, or the allowance of different benefits based solely on differences in contributions, provided that those making equal contributions are entitled to comparable benefits.
(E) A requirement that a member (or a member's dependents) meet a reasonable health standard related to eligibility for a particular benefit.

(F) The provision of life benefits in amounts that are a uniform percentage of the compensation received by the individual whose life is covered.

(G) The provision of benefits in the nature of wage replacement in the event of disability in amounts that are a uniform percentage of the compensation of the covered individuals (either before or after taking into account any disability benefits provided through social security or any similar plan providing for wage replacement in the event of disability).

(3) Examples. The provisions of this section may be illustrated by the following examples:

Example 1. Pursuant to a collective bargaining agreement entered into by X Corporation and W, a labor union which represents all of X Corporation's hourly-paid employees, the X Corporation Union Benefit Plan is established to provide life insurance benefits to employees of X represented by W. The Plan is funded by contributions from X, and is jointly administered by X and W. In order to provide its non-unionized employees with comparable life insurance benefits, X also establishes and funds the X Corporation Life Insurance Trust. The Trust will not be ineligible for exemption as an organization described in section 501(c)(9) solely because the life insurance benefits of members of W are not members of W.

Example 2. The facts are the same as in Example 1 except that the life insurance benefit provided to the non-unionized employees of X differs from the life insurance benefit provided to the unionized employees of X pursuant to the collective bargaining agreement. The trust will not be ineligible for exemption as an organization described in section 501(c)(9) solely because the life insurance benefits provided to X's nonunionized employees is not same as the life insurance benefit provided to X's unionized employees.

Example 3. S corporation established a plan to provide health benefits to all its employees. In accordance with the provisions of the plan each employee may secure insurance coverage by making an election under which the employee agrees to contribute periodically to the plan an amount which is determined solely by whether the employee elects a high option coverage or a low option coverage and on whether the employee is unmarried or has a family. As an alternative, the employee may elect high or low options, self only or self and family, coverage through a local prepaid group medical plan. The contributions required of those electing the prepaid group medical plan also vary with the type of coverage selected, and differ from those required of employees electing insurance. The difference between the amount contributed by employees electing the various coverages and the actual cost of purchasing the coverage is made up through contributions by S to the plan, and under the plan, S provides approximately the same proportion of the cost for each coverage. To fund the plan, S established an arrangement in the nature of a trust under applicable local law and contributes all employee contributions, and all amounts which by the terms of the plan it is required to contribute, to the trust. The terms of the plan do not provide for disproportionate benefits to the employees of S and will not be considered inconsistent with §1.501(c)(9)–2(a)(2)(i).

Example 4. The facts are the same as in Example 3 except that, for those employees or former employees covered by Medicare, the plan provides a distinct coverage which supplements Medicare benefits. Eligibility for Medicare is an objective condition relating to a type of benefit offered, and the provision of separate coverage for those eligible for Medicare will not be considered inconsistent with §1.501(c)(9)–2(a)(2)(i).

(b) Meaning of employee. Whether an individual is an employee is determined by reference to the legal and bona fide relationship of employer and employee.

The term employee includes the following:

(1) An individual who is considered an employee:

(i) For employment tax purposes under subtitle C of the Internal Revenue Code and the regulations thereunder, or

(ii) For purposes of a collective bargaining agreement, whether or not the individual could qualify as an employee under applicable common law rules. This would include any person who is considered an employee for purposes of the Labor Management Relations Act of 1947, 61 Stat. 136, as amended, 29 U.S.C. 141 (1979).

(2) An individual who became entitled to membership in the association by reason of being or having been an employee. Thus, an individual who would otherwise qualify under this paragraph will continue to qualify as an employee even though such individual is on leave of absence, works temporarily for another employer or as
an independent contractor, or has been
terminated by reason of retirement, disabil-
ity or layoff. For example, an in-
dividual who in the normal course of
employment is employed intermit-
tently by more than one employer in
an industry characterized by short-
term employment by several different
employers will not, by reason of tem-
porary unemployment, cease to be an
employee within the meaning of this
paragraph.

(3) The surviving spouse and depend-
ents of an employee (if, for purposes of
the 90-percent test of §1.501(c)(9)–2(a)(1)
they are considered to be members of
the association).

(c) Description of voluntary association
of employees—(1) Association. To be de-
scribed in section 501(c)(9) and this sec-
tion there must be an entity, such as a
corporation or trust established under
applicable local law, having an exist-
ence independent of the member-em-
ployees or their employer.

(2) Voluntary. Generally, membership
in an association is voluntary if an af-
firmative act is required on the part of
an employee to become a member rath-
er than the designation as a member
due to employee status. However, an
association shall be considered vol-
untary although membership is re-
quired of all employees, provided that
the employees do not incur a detriment
(for example, in the form of deductions
from pay) as the result of membership
in the association. An employer is not
deemed to have imposed involuntary
membership on the employee if mem-
bership is required as the result of a
collective bargaining agreement or as an
incident of membership in a labor
organization.

(3) Of employees. To be described in
this section, an organization must be
controlled—

(i) By its membership,

(ii) By independent trustee(s) (such
as a bank), or

(iii) By trustees or other fiduciaries
at least some of whom are designated
by, or on behalf of, the membership.
Whether control by or on behalf of the
membership exists is a question to be
determined with regard to all of the
facts and circumstances, but generally
such control will be deemed to be
present when the membership (either
directly or through its representative)
elects, appoints or otherwise design-
ates a person or persons to serve as
chief operating officer(s), adminis-
trator(s), or trustee(s) of the organiza-
tion. For purposes of this paragraph an
organization will be considered to be
controlled by independent trustees if it
is an employee welfare benefit plan, as
defined in section 3(1) of the Employee
Retirement Income Security Act of
1974 (ERISA), and, as such, is subject to
the requirements of parts 1 and 4 of
subtitle B, title I of ERISA. Similarly,
a plan will be considered to be con-
trolled by its membership if it is con-
trolled by one or more trustees des-
ignated pursuant to a collective bar-
gaining agreement (whether or not the
bargaining agent of the represented
employees bargained for and obtained
the right to participate in selecting the
trustees).

(4) Examples. The provisions of this
section may be illustrated by the fol-
lowing examples:

Example 1. X, a labor union, represents all
the hourly-paid employees of Y Corpo-
rations. A health insurance benefit plan was estab-
lished by X and Y as the result of a collec-
tive bargaining agreement entered into by
them. The plan established the terms and
conditions of membership in, and the bene-
fits to be provided by, the plan. In accord-
ance with the terms of the agreement, Y Cor-
poration is obligated to establish a trust
fund and make contributions thereto at spec-
ified rates. The trustees, some of whom are
designated by X and some by Y, are author-
zized to hold and invest the assets of the trust
and to make payments on instructions
issued by Y Corporation in accordance with
the conditions contained in the plan. The
interdependent benefit plan agreement and
trust indenture together create a voluntary
employees’ beneficiary association over
which the employees hold the requisite
control through the trustees designated by
their representative, X.

Example 2. Z Corporation unilaterally es-
ablished an educational benefit plan for its
employees. The purpose of the plan is to pro-
vide payments for job-related educational or
training courses, such as apprenticeship
training programs, for Z Corporation em-
ployees, according to objective criteria set
forth in the plan. Z establishes a separate
bank account which it uses to fund payments
to the plan. Contributions to the account are
to be made at the discretion of and solely by
Z Corporation, which also administers the
plan and retains control over the assets in the
fund. Z Corporation’s educational benefit

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§ 1.501(c)(9)–3 Voluntary employees' beneficiary associations; life, sick, accident, or other benefits.

(a) In general. The life, sick, accident, or other benefits provided by a voluntary employees' beneficiary association must be payable to its members, their dependents, or their designated beneficiaries. For purposes of section 501(c)(9), dependent means the member's spouse; any child of the member or the member's spouse who is a minor or a student (within the meaning of section 151(e)(4)); any other minor child residing with the member; and any other individual who an association, relying on information furnished to it by a member, in good faith believes is a person described in section 152(a). Life, sick, accident, or other benefits may take the form of cash or noncash benefits. A voluntary employees' beneficiary association is not operated for the purpose of providing life, sick, accident, or other benefits unless substantially all of its operations are in furtherance of the provision of such benefits. Further, an organization is not described in this section if it systemically and knowingly provides benefits (of more than a de minimis amount) that are not permitted by paragraphs (b), (c), (d), or (e) of this section.

(b) Life benefits. The term life benefits means a benefit (including a burial benefit or a wreath) payable by reason of the death of a member or dependent. A life benefit may be provided directly or through insurance. It generally must consist of current protection, but also may include a right to convert to individual coverage on termination of eligibility for coverage through the association, or a permanent benefit as defined in, and subject to the conditions in, the regulations under section 79. A life benefit also includes the benefit provided under any life insurance contract purchased directly from an employee-funded association by a member or provided by such an association to a member. The term life benefit does not include a pension, annuity or similar benefit, except that a benefit payable by reason of the death of an insured may be settled in the form of an annuity to the beneficiary in lieu of a lump sum death benefit (whether or not the contract provides for settlement in a lump sum).

(c) Sick and accident benefits. The term sick and accident benefits means amounts furnished to or on behalf of a member or a member's dependents in