plan and the related account do not constitute an association having an existence independent of Z Corporation and therefore do not constitute a voluntary employees’ beneficiary association.

Example 3. A, an individual, is the incorporator and chief operating officer of Lawyers’ Beneficiary Association (LBA). LBA is engaged in the business of providing medical benefits to members of the Association and their families. Membership is open only to practicing lawyers located in a particular metropolitan area who are neither self-employed nor partners in a law firm. Membership in LBA is solicited by insurance agents under the control of X Corporation (owned by A) which, by contract with LBA, is the exclusive sales agent. Medical benefits are paid from a trust account containing periodic contributions paid by the members, together with proceeds from the investment of those contributions. Contribution and benefit levels are set by LBA. The members of LBA do not hold meetings, have no right to elect officers or directors of the Association, and no right to replace trustees. Collectively, the subscribers for medical benefits from LBA cannot be said to control the association and membership is neither more than nor different from the purchase of an insurance policy from a stock insurance company. LBA is not a voluntary employees’ beneficiary association.

Example 4. U corporation unilaterally established a plan to provide benefits to its employees. In accordance with the provisions of the plan, each employee may secure insurance or benefit coverage by making an election under which the employee agrees to contribute 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 elects self only or self and family coverage. The difference between the amount contributed by employees electing the various coverages and the actual cost of the coverage is made up through contributions by U to the plan.

To fund the plan, U established an arrangement under which the employee agrees to contribute 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 elects self only or self and family coverage. The difference between the amount contributed by employees electing the various coverages and the actual cost of the coverage is made up through contributions by U to the plan.

The trust constitutes an employee welfare benefit plan within the meaning of, and subject to relevant requirements of, ERISA. It will be considered to meet the requirements of §1.501(c)(9)-2(c)(3).


§ 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 systematically 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
the event of illness or personal injury
to a member or dependent. Such benefits
may be provided through reimbursement
to a member or a member’s dependents
for amounts expended because of illness or personal injury, or
through the payment of premiums to a
medical benefit or health insurance
program. Similarly, a sick and accident
benefit includes an amount paid to a member in lieu of income during a
period in which the member is unable
to work due to sickness or injury. Sick
benefits also include benefits designed
to safeguard or improve the health of
members and their dependents. Sick
and accident benefits may be provided
directly by an association to or on behalf
of members and their dependents, or
may be provided indirectly by an asso-
ciation through the payment of pre-
miums or fees to an insurance com-
pany, medical clinic, or other program
under which members and their de-
pendents are entitled to medical serv-
ces or to other sick and accident bene-
fits. Sick and accident benefits may
also be furnished in noncash form, such
as, for example, benefits in the nature
of clinical care services by visiting
nurses, and transportation furnished
for medical care.

(d) Other benefits. The term other ben-
efits includes only benefits that are
similar to life, sick, or accident bene-
fits. A benefit is similar to a life, sick,
or accident benefit if:

(1) It is intended to safeguard or im-
prove the health of a member or a
member’s dependents, or

(2) It protects against a contingency
that interrupts or impairs a member’s
earning power.

(e) Examples of other benefits. Paying
vacation benefits, providding vacation facili-
ties, reimbursing vacation exp-
enses, and subsidizing recreational ac-
tivities such as athletic leagues are con-
sidered other benefits. The provision
of child-care facilities for preschool
and school-age dependents are also con-
sidered other benefits. The provision of
job readjustment allowances, income
maintenance payments in the event of
economic dislocation, temporary living
expense loans and grants at times of
disaster (such as fire or flood), supple-
mental unemployment compensation
benefits (as defined in section 501(c)(17)(D)(i) of the Code), severance
benefits (under a severance pay plan
within the meaning of 29 CFR 2510.3–
2(b)) and education or training benefits
or courses (such as apprentice training
programs) for members, are considered
other benefits because they protect
against a contingency that interrupts
earning power. Personal legal service
benefits which consist of payments or
credits to one or more organizations or
trusts described in section 501(c)(20) are
considered other benefits. Except to the
extent otherwise provided in these reg-
lations, as amended from time to
time, other benefits also include any
benefit provided in the manner per-
mitted by paragraphs (5) et seq. of sec-
tion 302(c) of the Labor Management
Relations Act of 1947, 61 Stat. 136, as

(f) Examples of nonqualifying benefits.
Benefits that are not described in para-
graphs (d) or (e) of this section are not
other benefits. Thus, other benefits
also do not include the payment of commuting expenses, such as bridge tolls or train
fares, the provision of accident or
homeowner’s insurance benefits for
damage to property, the provision of
malpractice insurance, or the provision
of loans to members except in times of
distress (as permitted by §1.501(c)(9)–
3(e)). Other benefits also do not include
the provision of savings facilities for
members. The term other benefits does
not include any benefit that is similar
to a pension or annuity payable at the
time of mandatory or voluntary retire-
ment, or a benefit that is similar to the
benefit provided under a stock bonus or
profit-sharing plan. For purposes of
section 501(c)(9) and these regulations,
a benefit will be considered similar to
that provided under a pension, annuity,
stock bonus or profit-sharing plan if it
provides for deferred compensation
that becomes payable by reason of the
passage of time, rather than as the re-
result of an unanticipated event. Thus,
for example, supplemental unemploy-
ment benefits, which generally become
payable by reason of unanticipated lay-
off, are not, for purposes of these regu-
lations, considered similar to the ben-
efit provided under a pension, annuity,
stock bonus or profit-sharing plan.
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(g) Examples. The provisions of this section may be further illustrated by the following examples:

Example 1. V was organized in connection with a vacation plan created pursuant to a collective bargaining agreement between M, a labor union, which represents certain hourly paid employees of T corporation, and T. The agreement calls for the payment by T to V of a specified sum per hour worked by T employees who are covered by the collective bargaining agreement. T includes the amounts in the covered employees’ wages and withholds income and FICA taxes. The amounts are paid by T to V to provide vacation benefits provided under the collective bargaining agreement. Generally, each covered employee receives a check in payment of his or her vacation benefit during the year following the year in which contributions were made by T to V. The amount of the vacation benefit is determined by reference to the contributions during the prior year to V by T on behalf of each employee, and is distributed in cash to each such employee. If the earnings on investments by V during the year preceding distribution are sufficient after deducting the expenses of administering the plan, each recipient of a vacation benefit is paid an amount, in addition to the contributions on his or her behalf, equal to his/her ratable share of the net earnings of V during such year. The plan provides a vacation benefit that constitutes an eligible other benefit described in section 501(c)(9) and §1.501(c)(9)-3(e).

Example 2. The facts are the same as in Example 1, except that each covered employee of T is entitled, at his or her discretion, to contribute up to an additional $1,000 each year to V, which agrees in respect of such sum to pay interest at a stated rate from the time of contribution until the time at which the contributing employee’s vacation benefit is distributed. In addition, each employee may elect to leave all or a portion of his/her distributable benefit on deposit past the time of distribution, in which case interest will continue to accrue. Because the plan more closely resembles a savings arrangement than a vacation plan, the benefit payable to the covered employees of T is not a vacation benefit and is not an eligible other benefit described in section 501(c)(9) and §1.501(c)(9)-3 (a) or (e).