

PRIVATE TAXPAYER RULING LR99-002

February 18, 1999

The following private taxpayer ruling is provided in response to your letter dated January 28, 1999 in which you requested the department to rule whether Attorneys-in-Fact, who are engaged only in activities under A.R.S. § 20-771 for reciprocal insurers, are exempt from Arizona income tax under A.R.S. § 20-767.

The following is a restatement of the facts as presented in the request for a private taxpayer ruling.

Statement of Facts:

... and its wholly owned subsidiaries, ... and ... act as the Attorneys-in-Fact for three Reciprocal Insurers or Interinsurance Exchanges – The Reciprocal Insurers are California domiciled insurers that have been operating in Arizona for many years. The only activities of the Attorneys-in-Fact in Arizona are with respect to its insurer's transactions.

Applicable Statutory Provisions:

A.R.S. § 43-102.A.5 declares the intent of the legislature to impose on each corporation a tax measured by taxable income which is the result of activity within the state.

A.R.S. § 20-767 provides that an attorney-in-fact for a reciprocal insurer shall not, by virtue of discharge of its duties with respect to the insurer's transactions, be deemed to be doing business in this state within the meaning of any laws of this state applying to foreign firms or corporations.

A.R.S. § 20-771 defines the rights and powers of the attorney-in-fact for a reciprocal insurer.

Discussion:

A.R.S. § 20-767 provides that Attorneys-in-Fact for reciprocal insurers within the state of Arizona shall not, by virtue of the discharge of their duties with respect to the insurer's transactions in this state, be deemed to be doing business in this state within the meaning of any laws of this state applying to foreign firms or corporations. Therefore, an Attorney-in-Fact whose only activity is the discharge of its duties with respect to the insurer's transactions is not

deemed to be doing business in this state within the meaning of the income tax statutes.

A corporation acting as Attorney-in-Fact for reciprocal insurers and also conducting other activities within the state may be subject to Arizona income tax, if these other activities unrelated to the insurance business are considered to be conducting business within the state.

Conclusion and Ruling:

On the basis of the information provided, we rule that ... and its wholly owned subsidiaries, ... are acting as Attorneys-in-Fact for reciprocal insurers within the provisions of A.R.S. § 20-771. Pursuant to A.R.S. § 20-767 the Attorneys-in-Fact are not, by virtue of the discharge of their duties with respect to the insurer's transactions, deemed to be doing business in this state and are not subject to Arizona income tax.

The conclusion in this private taxpayer ruling does not extend beyond the facts as presented in the letter dated January 28, 1999, requesting a private taxpayer ruling.

This response is a private taxpayer ruling and the determination herein is based solely on the facts provided in your request. The determination in this taxpayer ruling is the present position of the department and is valid for a period of four years from date of issuance except as set out herein. This determination is subject to change should the facts prove to be different on audit. If it is determined that undisclosed facts were substantial or material to the department's making of an accurate determination, this taxpayer ruling shall be null and void. Further, the determination is subject to future change depending on changes in statutes, administrative rules, case law or notification of a different department position.