



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RICK SNYDER
GOVERNOR

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STATE TREASURER

LETTER RULING 2016-1

LR 2016-1. Taxability of Workers' Compensation Self-Insurer Group Funds under the Michigan Corporate Income Tax Act.

You ask whether self-insurer group funds authorized and regulated under Section 611(2) of the Michigan Workers Disability Compensation Act¹ (WDCA) are subject to tax under Part 2 of the Michigan Income Tax Act² (MITA).

The self-insurer group funds you inquire about are groups of employers doing business in the same industry that have sought and obtained permission from the Director of the Bureau of Worker's Compensation to pool their resources to secure payment for worker's compensation liability claims for the purpose of qualifying as self-insurers.³ According to the WDCA, a self-insurer is either an individual employer authorized to carry its own risk or a group of employers who pool their liabilities as a group fund.⁴ Your inquiry pertains to self-insurer group funds that are not organized as partnerships, corporations, or any other particular type of business structure registered with the State of Michigan. Additionally, you have represented that these group funds are not authorized insurers as that term is used in Section 607(5) of the MITA because the commissioner of insurance of this State has not issued to them a subsisting certificate of authority to transact insurance in this State.

Part 2 of the MITA, known as the corporate income tax (CIT), levies tax on corporations, insurance companies and financial institutions. This letter ruling addresses each of these taxpayers in response to your inquiry.

For purposes of this letter, the Department assumes your assertions regarding the classification of the self-insurer group funds are true.

Self-insurer group funds are not subject to tax as corporations

Part 2 of the MITA defines a corporation as a person that is required or has elected to file as a C corporation as defined under section 1361(a)(2) and section 7701(a)(3) of the internal revenue code.⁵ You assert that the self-insurer group funds at issue are not incorporated, are not defined

¹ MCL 418.611(2).

² MCL 206.601-699

³ MCL 418.611(2).

⁴ MCL 418.601.

⁵ MCL 206.605(1).

as corporations in the Internal Revenue Code, and have not and will not elect or be required to file as a C corporations. Therefore, they are not subject to the CIT as corporations.

Self-insurer group funds are not subject to tax as insurance companies

Part 2 of the MITA defines an insurance company as an authorized insurer as defined in section 108 of the insurance code of 1956, which – in turn – defines an insurance company as “an insurer duly authorized, by a subsisting certificate of authority issued by the commissioner, to transact insurance in this state.”⁶ You assert that the self-insurer group funds at issue have not been issued and are not required to obtain a certificate of authority from the commissioner of insurance. Instead they are governed and regulated by the director of the Bureau of Worker’s Compensation.⁷ Therefore, they are not subject to the CIT as insurance companies.

Self-insurer group funds are not subject to tax as financial institutions

A financial institution is defined in Part 2 of the MITA as a bank holding company, a national bank, a state chartered bank, a state chartered savings bank, a federally chartered savings association, or a federally chartered farm credit system institution, or an entity owned by one of these entities and a member of the unitary business group or a unitary business group of any of these entities.⁸ There are no facts presented to indicate that the self-insurer funds fit the definition of a financial institution under the MITA. A group of employers pooling their funds to pay worker’s compensation claims lacks the status of a bank holding company or national bank, and there is no indication that the fund has either a state or federal charter as a bank, savings association or credit institution. You assert that the self-insurer group funds at issue are not financial institutions under the MITA. Therefore, the self-insurer group funds are not subject to the CIT as financial institutions.

In conclusion, the self-insurer group funds you inquire about are not subject to the CIT.

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⁶ See MCL 206.607(5) and MCL 500.108(1).

⁷ MCL 418.611(1)(a) and (2) and Administrative Rule 418.43 and 43a-43t.

⁸ MCL 206.651(f).