

CB-NOTICE, 2003FED ¶46,523 **Tax-exempt organizations: Insurance company: Net written premiums.** —, **Notice 2003-35** I.R.B. 2003-23 (May 9, 2003)  
**Notice 2003-35** , I.R.B. 2003-23, May 9, 2003.

[ [Code Secs. 501](#) and [831](#)]

**Tax-exempt organizations: Insurance company: Net written premiums.** — The IRS has issued a notice reminding taxpayers that an entity must be an insurance company for federal income tax purposes in order to qualify as a tax-exempt organization under [Code Sec. 501\(c\)\(15\)](#). The IRS is scrutinizing the tax-exempt status of entities claiming to be insurance companies as described in [Code Sec. 501\(c\)\(15\)](#), and will challenge the exemption of any entity that fails to qualify. An insurance company, other than a life insurance company, is exempt from tax under [Code Sec. 501\(c\)\(15\)](#), if its net written premiums for the tax year do not exceed \$350,000. In order to qualify as an insurance company, the entity must issue insurance contracts or reinsure risks underwritten by insurance companies as its primary and predominant business activity during the taxable year. [Notice 2002-70](#), I.R.B. 2002-44, 765, discusses the analysis applicable in evaluating whether an entity qualifies as an insurance company. Back references: [¶22,640.01](#), [¶22,640.70](#) and [¶26,135.021](#).

The purpose of this notice is to remind taxpayers that an entity must be an insurance company for federal income tax purposes in order to qualify as exempt from federal income tax as an organization described in [§501\(c\)\(15\)](#) of the Internal Revenue Code.

[Section 501\(a\)](#) provides that an organization described in [§501\(c\)](#) shall be exempt from federal income tax. [Section 501\(c\)\(15\)](#) provides that an insurance company (other than a life insurance company) is tax-exempt if its net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed \$350,000. For purposes of this annual test, the company is treated as receiving during the taxable year premiums received during the same year by all other companies within the same controlled group, as defined in [§831\(b\)\(2\)\(B\)\(ii\)](#).

For an entity to qualify as an insurance company, it must issue insurance contracts or reinsure risks underwritten by insurance companies as its primary and predominant business activity during the taxable year. For a discussion of the analysis applicable to evaluating whether an entity qualifies as an insurance company, see [Notice 2003-34](#), 2003-23 I.R.B. \_\_\_\_ (June 9, 2003) and [Notice 2002-70](#), 2002-44 I.R.B. 765 (November 4, 2002).

The Service is scrutinizing the tax-exempt status of entities claiming to be described in [§501\(c\)\(15\)](#) and will challenge the exemption of any entity that does not qualify as an insurance company. The Service will challenge the exemption of the entity, regardless of whether the exemption is claimed pursuant to an existing determination letter or on a return filed with the Service.

Taxpayers claiming exemption pursuant to [§501\(c\)\(15\)](#) should also consider whether they are engaged in arrangements described in [Notice 2002-70](#) or substantially similar thereto.

## DRAFTING INFORMATION

The principal author of this notice is Lee T. Phaup, TE/GE Division, Exempt Organizations. For further information concerning this notice contact Ms. Phaup at (202) 283-8935 (not a toll-free call).