

December 5, 2000

Re: Request for Ruling
General Corporation Tax

FLR # 004772-006

Dear _____ :

This is in response to your request for a ruling dated _____ regarding the application of the New York City General Corporation Tax to the _____ (the "Company").

FACTS

The facts presented are as follows:

The Company is a life insurance company incorporated under the laws of _____. The New York State Department of Insurance has not licensed the Company to conduct an insurance business in New York State (the "State"). Nor is the company otherwise authorized to do business in New York. The Company's activities in the State and New York City (the "City") are limited to the leasing of a liaison office in the City. The liaison office conducts market research and studies the current practices of the insurance industry in the United States. However, the Company does not issue insurance or reinsurance policies through its liaison office, it does not engage in any other business activities in the City, and it does not own any real property in the City.

ISSUES

You have requested rulings on whether the Company is subject to the General Corporation Tax (GCT) and what the City's filing requirements for the Company are.

CONCLUSION

Based upon the facts presented and the representations submitted, we have determined that the Company is not subject to the GCT. Because the Company has representatives or agents in the City, it must annually file a report on form NYC-245.

DISCUSSION

The Exemption from tax. The GCT is imposed on corporations that do business, employ capital, own or lease property, or maintain an office in the City. *See* Administrative Code of the City of New York (“Administrative Code”) § 11-603(1). Prior to July 1, 1974, however, a corporation was exempt from the GCT if it was subject to the City Insurance Corporation Tax (Part IV of Title R, Chapter 46 of the former version of the Administrative Code as in effect prior to September 1, 1986). *See* former Administrative Code § R46-3.0.

The Legislature repealed the City Insurance Corporation Tax, effective July 1, 1974, and section 11-603(1) of the Administrative Code no longer contains an exemption for insurance corporations. Laws of 1974, Ch. 649, §11. Nevertheless, the exemption for insurance corporations remains in effect as a result of the GCT’s enabling legislation, from which the exemption in the former section of the Administrative Code was derived. *See* Laws of 1966, Chapter 772, Model Act § 3. This enabling legislation was never amended to reflect the repeal of the City Insurance Corporation Tax, and it still precludes the City from subjecting insurance corporations to the GCT.

The GCT ‘s enabling legislation defines an insurance corporation to include a corporation “doing an insurance business in this state” *See* Laws of 1966, Chapter 772, Model Act § 41.4. The activities of the liaison office are incidental and subsidiary to the Company’s insurance business outside of the State. Moreover, the Company does not engage in any other business or income producing activity in the City, such as owning real property or conducting a non-insurance business. Accordingly, we have determined that the Company’s activities in the City constitute an insurance business for purposes the exemption from the GCT, and that the Company is, therefore, exempt from the GCT.

Filing Requirements. Section 11-605(1) of the Administrative Code requires every corporation that has an officer, agent, or representative in the City to file a report with the Commissioner of Finance within two and one-half months after the close of the corporation’s taxable year. Inasmuch as the Company has representatives and an office in the City, but is claiming an exemption from the GCT as an insurance company, it must annually file the report on form NYC-245, Activities Report of Corporations.

The Department reserves the right to verify the information submitted.

Sincerely,

Devora B. Cohn
Associate Commissioner
For Legal Affairs