



NEWS

THE NEWSLETTER OF THE AMERICAN ASSOCIATION OF STATE COMPENSATION INSURANCE FUNDS

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The AASCIF News is published quarterly by the American Association of State Compensation Insurance Funds for its members and for others interested in state workers' compensation systems. This issue was edited by Michael Bourque of Maine Employers' Mutual Insurance Company.

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The Federal Tax Issue

Congress Has Set the Rules for Earning the Income Tax Exemption

BY MICHAEL A. BELL, ESQ.
LABOEF, LAMB, GREENE & MACRAE

State workers' compensation insurance funds have existed in the U.S. since the very early days of the 20th century. At first, most were state agencies or something very like state agencies. As time passed, more and more states established workers' compensation insurance funds, and each one was a little bit different from the others.

Some state workers compensation insurance funds were created as an antidote to the state assigned risk pool. Others were created to operate in conjunction with the state's assigned risk pool. Some state workers compensation insurance funds are exclusive funds; most, however, are competitive funds.

But one thing that virtually all state workers' compensation insurance funds have in common is that they never thought that they might be subject to Federal income tax. Why should they be? They are part of the state or closely related to it; in many cases they are staffed by state employees. Most if

NATIONAL ISSUES COMMITTEE

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AASCIF Website: A great tool

www.aascif.org is an address worth knowing

If we have to tell you that there is a lot of good information on the internet's world wide web, well, then you just haven't been paying attention.

But, like all those high numbered channels on your television set, you don't

know what you're missing until you get there. The same might be said of the internet, particularly in the case of www.aascif.org.

As a far flung organization whose members don't contact each other on a daily basis, it can be difficult to keep the rolodex updated. Or perhaps you can't

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PRESIDENT'S MESSAGE

BY JOHN T. LEONARD
PRESIDENT AND CEO, MAINE EMPLOYERS' MUTUAL INS. CO.



Who ever said that a career in the insurance industry would be dull? Well, they apparently couldn't forecast the growing anxiety currently felt within the workers' compensation market.

Let's start with the March 8 edition of Best Week reporting on the "sizable" gross losses suffered by a pool of life insurance companies that covers "carve-out" business for the health portion of workers' comp insurance. Later reports were more definitive indicating that business was priced 30% - 40% below expected losses, with the bulk of the risk passed on to reinsurers.

What will the actual dollar shortfall be at the end of the day- ask your favorite analyst for a prediction or simply wait a couple of years and read all about it. While it's early in this problem's cycle, analysts are suggesting that the pool could face losses of \$1 billion to more than \$2.5 billion over two years. The impact on pricing still won't be significant, however, as cutthroat competition remains in place throughout many states.

Rolling up country wide results, accident year stats peg the net combined ratio for 1998 at 121%. This follows the 116% (new) for 1998 and represents the fifth straight annual increase in accident year results starting with 1994.

Will this miserable level of performance act as a sobering agent for this industry? Will the stress of this reinsurance blip combined with the reality of current year financials work together to firm the market? Stay tuned- for no one really knows as our market tends to establish its own direction as time goes by. I guess that's why my actuary friends, if I have any left, default to "history is my guiding light". I reluctantly understand their reflection and probably agree with their reality.

Maybe Warren Smalley and his New Mexico teammates can provide some answers for our members as we gather at the 51st annual meeting scheduled to begin on August 15 in Albuquerque. This event is shaping up to be truly memorable given the level of interest and enthusiasm expressed by our members and associate members alike.

Hope to see you in Albuquerque...



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Albuquerque promises special Annual Conference

AASCIF's 1999 Annual Conference, hosted by New Mexico Mutual Compensation and Casualty Company, is set for August 14 through 19 in Albuquerque, New Mexico.

Themed "Diversify in '99" the conference will include such topics as: *Managing Organizations in Change*, *Dynamic Financial Analysis*, *Fragmentation of Statistical Databanks*, *Independent Agents and State Funds*, *Insurance Fraud*, and *Why Workers' Comp Reform Has Worked*.

The program also includes a motivational speaker, a keynote address from New Mexico Superintendent of Insurance Harvey Mackay and Gov. Gary Johnson.

The social program includes the President's Reception at Albuquerque Biological Park, balloon rides on Sunday morning, a carnival night, the annual golf tournament at University South Golf Course and the closing banquet themed "A Night at Balloon Park".

A full guest program includes a shopping trip to Santa Fe and a tour of Sky City Acoma Pueblo

The conference will be based at the Albuquerque Hilton (call 1-800-274-6835 for reservations) with a special AASCIF rate of \$94 per night.

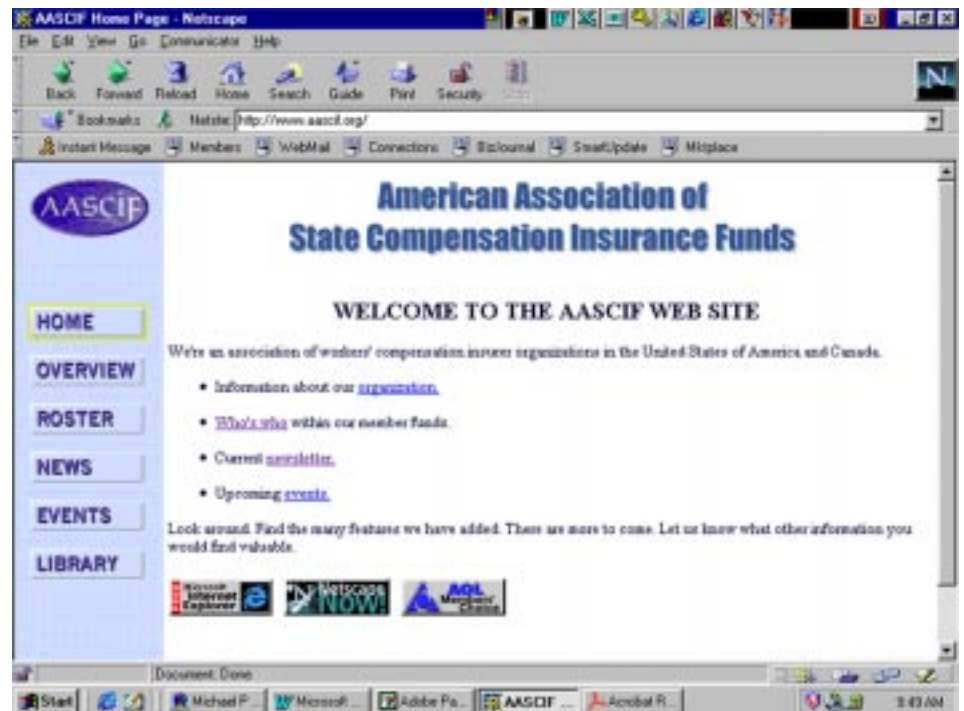
Registration information is to be mailed in early summer. Questions? Contact Patricia McCarthy at (505) 343-2804.

www.aascif.org: a resource worth knowing about

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remember just what the dates are for the Albuquerque meeting. Or maybe you're about to face a hostile media interview and you've mislaid your copy of the Spring '98 newsletter (which included good advice for this exact situation). All of these things and more are available through www.aascif.org.

The site was created and is technically maintained by Minnesota State Fund Mutual Insurance Company. As the host of the site, SFMIC also administers the part of the site that is password protected. As a member of AASCIF, you have been assigned a username and password. This will allow you to gain access to such features as the detailed roster, which lists names, direct phone lines and e-mail addresses for many of the top administrators at member funds. In addition, information on AASCIF's committees and the entire annual statistical book is published in Adobe Portable Docu-



AASCIF's website gives members access to special information, including direct contact information for many levels within each organization.

ment File format. If you do not know your organization's username and password, contact Eric Mattson at SFMIC (612) 914-1314 or via e-mail

ericm@sfmic.com) or Jean Hammond at SFMIC at (612) 914-1280 or via e-mail at jeanh@sfmic.com

Oh, What a Tangled Web We Weave

Case Study: One fund's experience on the World Wide Web

BY GLENN HILDEBRAND
MANITOBA WCB

About two years ago, the Manitoba WCB made its debut on the Internet. The planning and initial work began a full year before the launch and may contain a lesson or two that sounds familiar.

COMMUNICATIONS COMMITTEE

It's summer 1996 and only a couple of Canadian funds are on the web and a handful of state funds. Consideration and development of a potential Manitoba site was initially seen as an IS/IT project. It was about computers so it seemed only logical that the technology folks should take the lead with the project.

There were diverse views about whether or not the Manitoba WCB should be on the Internet. Some thought it was the way of the future and any forward thinking fund should be eager to jump on board. Others had difficulty seeing the need. They didn't use the Internet and didn't know a lot of people who did so why bother? Still others, some in senior management positions readily admitted they knew little about the Internet but

would be willing to consider a case for Manitoba's presence.

Meanwhile, communications made its case that the Website was like a big electronic library or collection of brochures, manuals and publications. It therefore

a site.

The IT/IS folks approached a supplier they were very comfortable with and asked them to develop a website. The supplier was thrilled. They wanted to enter into website development as a new business line but had no experience. They would build the entire infrastructure for the site, enter into a long-term maintenance contract and be poised to add commerce or transactional features to the website as the technology became available and accepted.

The communications folks took a different approach. We examined sites that already existed and developed a template that we believed was the best of what was available. The communicators focused on content for the site and let the other sites

provide the technology guidance. We looked at the types of information we wanted to provide to the various audiences who would use the site and tried to arrange that information in a user friendly manner.

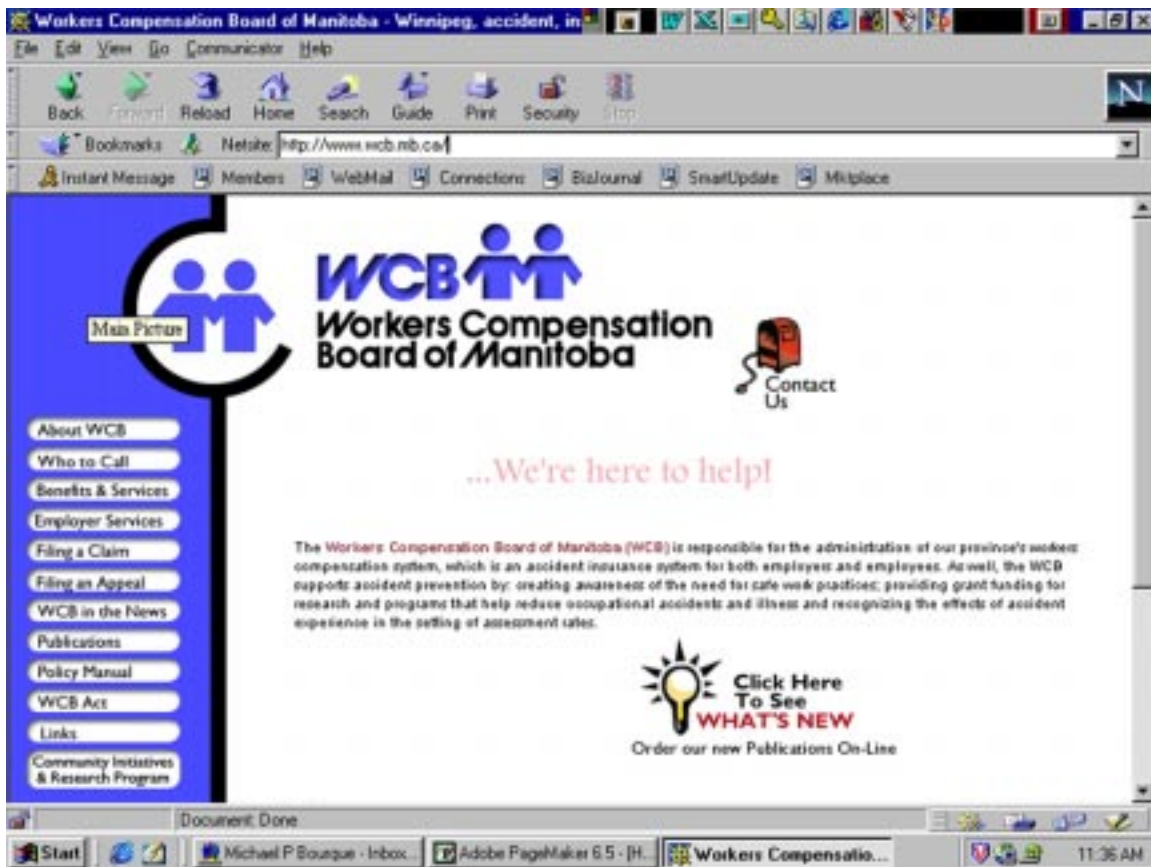
The lack of a shared understanding between the two departments formed a foundation for failure. The self fulfilling prophecy quickly resulting in a parting of ways. All was not quiet on the Internet front. While not without some risk, com-

The lack of a shared understanding between the two departments formed a foundation for failure.

made sense for the Communications department to have a high degree of involvement with the project. After all, you didn't see engineers programming the content of television in the early days just because they were the ones who put the signal on the air.

In the end, it was decided Communications and IT/IS should work together to develop the site. It certainly made sense on the surface. This was just the kind of project that cried out for a partnership approach. The problems started early when it became apparent the partners were going their separate ways to develop

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In building a first-class website, the Manitoba Workers' Compensation Board found that Communications and Information Technology needed to collaborate from the beginning.

munications went off on its own and with an experienced Web developer had a Website ready for launch in six months.

Over the past year and a half, the site has grown to contain almost four megabytes of information. That's more than 1,000 pages of content! New additions to our site include RealAudio and RealVideo of our fall '98 radio and television advertising campaign and an on-line order form for some publications. While the primary audience for our Website is Manitoba employers and workers, we see visitors from the United States, Australia, Hong Kong and the United Kingdom among our 1,500 visitors a month.

While several Fund's have added commerce related features to their Websites

- in British Columbia you can file an accident report, in New York (and several other jurisdictions) you can get an on-line quote or access some form of Comp online service. One thing that becomes certain as we begin to integrate the Internet with our business processes, success can best be achieved through a working partnership where participants bring their strengths and expertise to bear.

I have learned that the challenge of content providers and information systems staff to working hand in hand is not unique to Manitoba. The trend today is for marketing and communications to maintain responsibility for the content and look of the Website with IS/IT coordinating the host server and other technical aspects.

It's clear that an effective partnership can lead to a better product – an information vehicle that meets the needs of the fund and its stakeholders. One has only to visit either the AASCIF Website funds on the Web links page (www.aascif.org/roster/fundsonweb.html) or the AWCBC links page (www.awcbc.ca/english/wcb_links.htm) to see the diverse fund Websites available today.

Glenn Hildebrand is Communications Director for the Workers Compensation Board of Manitoba, based in Winnipeg, and is a member of the AASCIF Communications Committee. To contact him, call (204) 954-4112 or by e-mail at ghilderbr@wcb.mb.ca

AROUND AASCIF



Around AASCIF is a regular feature of the AASCIF newsletter. It briefly covers items of interest submitted by AASCIF members. To ensure that your organization is included, send information to Michael Bourque, Maine Employers' Mutual Ins. Co., P.O. Box 11409, Portland, ME 04104, by fax at 207.791.3335 or via e-mail at mbourque@memic.com

Arizona

30TH Anniversary: The State Fund celebrates 30 years of service to Arizona employers since its 1969 separation from the Industrial Commission. The State

Fund provided coverage to 18,000 policyholders in 1969, 23,000 in 1979 and has steadily grown to nearly 48,000 today.

Record Dividend: The Board of Directors declared a record \$81.5 million dollar loss sensitive dividend for the 1998 policy year representing a 40 percent return to policyholders.

Financial Highlights: Other financial highlights for 1998 include annual premium of \$206 million down 14 percent due to rate decreases and continued competition in the marketplace. New claims filed dropped 11 percent to 39,000. Nearly 70,000 claims per year were filed as recently as 1994. Net investment income for the year totaled \$163 million. The Fund's managed care programs including medical bill audit, utilization re-

view, preferred provider networks, subrogation recoveries and rearrangements produced savings of \$45.6 million.

California

SCIF-Kaiser Alliance Savings: According to a study by Ernst & Young, the State Compensation Insurance Fund's alliance with Kaiser Permanente is working to reduce overall costs. The study reported that the average medical cost per claim was down for all kinds of claims (those with temporary disability payments and those without) despite the fact that the alliance between the two organizations did not include discounts. The study found that the average medical cost was \$1,839 for claims outside of the alliance. Those which used the alliance were \$1,189 (more than 30 percent less). The study

found that the cost savings were a result of a decrease in use of physical medicine services. While the lower medical costs might have been expected to put pressure on indemnity costs, the study found that they hadn't. The study showed that claims made through the Kaiser arrangement were of significantly shorter duration. ~Rich Schultz rdschultz@scif.com

Colorado

Internet Claims Reporting: Colorado Compensation Insurance (CCIA) continues to expand its Internet services to policyholders with its *OnLine Service Center*. To file a claim, an employer only needs to access the authority's website at www.colocomp.com and have the company name and policy number available. Simple instructions lead the user through several different screens for inputting information. When complete, the user can print the injury report and a confirmation number. Policyholders can also report a claim via fax or by calling a toll-free number. ~Susan Griffiths (susan.griffiths@colocomp.com)

Kentucky

New Rating Plan: Kentucky Employers' Mutual Insurance in early May announced the approval of a new rating plan which will result in reductions of between 5 and 50 percent for qualifying policyholders. The rating plan will reward KEMI's best performing customers from the standpoint of medical and safety management. Board Chair David Snowden called the reduction "symptomatic of our basic stability."

According to KEMI, this reduction comes at a time when the industry is feeling pressure to increase rates. "Unlike some carriers," said KEMI President Roger Fries, "KEMI never got into the game of chasing customers with too-good-to-be-true deals. Unfortunately, when soft markets harden, too often it's the policyholder or agent that gets left holding the bag through carrier abandonment or increased rates."

Maine

MEMIC Gets Mass. License: Maine Employers' Mutual Insurance Company (MEMIC) recently received a license to write workers' compensation in Massachusetts. The license was approved by the state's Bureau of Insurance, giving MEMIC an avenue to support its Maine customers in their operations in the Bay State. A MEMIC subsidiary also has a license application pending in the state of New Hampshire. The subsidiary would be able to write workers' compensation in New Hampshire and other states through a fronting arrangement. The move is consistent with the company's plans to diversify.

Maryland

IWIF Acquires Managed Care Services: Maryland Injured Workers Insurance Fund announced recently that it will acquire the assets of Baltimore-based Statutory Benefits Management Corporation, an independent provider of workers' compensation managed healthcare services. IWIF agreed to pay \$6.5 million for SBMC's assets. SBMC

had previously provided benefits through a contractual agreement. According to IWIF, the in-house administration of SBMC's service will cost the company a little more than \$7 million annually, a significant savings from an earlier bid process. ~George Layfield (410) 494-2060

Missouri

Report Released: Missouri Employers' Mutual recently released its annual report. Consistent with MEM's "Show Me ..." advertising campaign, the report is titled "Show Me One Year of Safety and Service. We Did." President and CEO Dennis Smith said the company had met its own "Show Me" challenge with its 1998 performance. MEM now controls 16 percent of the Missouri market, tops among Missouri insurers. It has more than 15,000 policyholders and reported \$6.9 M in net income at the end of 1998.

New York

Anti-Fraud Plan: On the heels of its most successful year in tracking down and obtaining felony convictions in workers' compensation fraud cases, SIF's Division of Confidential Investigations (DCI) has submitted a comprehensive anti-fraud plan to the New York State Insurance Department. The plan includes:

- Increased anti-fraud training for Claims, Underwriting and Premium Audit personnel.
- Increased hiring of investigators, attorneys and support staff to expand DCI activities.

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The Tax Issue

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not all, got their seed money from the state, although many have since repaid their states with interest. The Governor appoints the Board of Directors of many state workers' compensation insurance funds. A few funds were designed with Federal income taxes in mind, but all the rest are tax-exempt—or so they have believed.

It was a great surprise, then, when the IRS started knocking on the doors of state workers' compensation insurance funds a few years ago and demanding that they prove their entitlement to Federal income tax exemption. Not having been taxpayers, those funds did not know where to begin. As it turns out, the IRS was not too clear on where to begin, either.

At the time there were two possible avenues to proving that a state workers' compensation insurance fund was entitled to Federal income tax exemption. For those funds that truly were part of their states, *e.g.*, a fund that is a division of a branch of the state government, tax-exemption lay in an IRS-made rule known as the "integral part" doctrine. Developed in the 1930s, the integral part doctrine says, with narrow exceptions, that states are not subject to Federal income tax, and therefore neither is any entity that is an integral part of the state.² The essential criteria for being an integral part of a state are that the state have created the entity, that the state fund the entity, and that the state have control

of the entity's management.

Funds that did not quite fall under the integral part doctrine could nonetheless prove their entitlement to exemption under § 115 of the Internal Revenue Code³. That section provides exemption from Federal income taxes for organizations that perform an essential governmental function as long as the income derived from the function accrues to the state. The essential factors for exemption under § 115 are state control of the eligible organization and its operations, and either accrual of the organization's income to the state or reversion of the organization's assets to the state on dissolution.

The similarities between the two standards—integral part and § 115—have caused the IRS and even the courts to confuse them, often applying the wrong standard in a case or, worse yet, applying part of one standard and part of the other. An example will illustrate. In the early 1970s, the General Counsel of the IRS issued a determination on the tax-exempt status of a State Industrial Accident Fund. The Fund had asked to the IRS to tell it whether it was tax-exempt, and the IRS technicians were all set to rule that the Fund was an integral part of the State, when the IRS General

Counsel intervened.

The IRS General Counsel said that the Fund could not be an integral part of the State because it wasn't *anypart* of the state: it was a trust—an entity separate from the state. Instead, the IRS General Counsel set out some standards under § 115 and determined that the Fund was exempt even though it failed to meet most of the tests that the General Counsel had established.⁴

To make matters even more confusing, in the past 4-5 years, the IRS has ruled on at least 3 occasions that state-created insurance entities were integral parts of their state. The standards applicable to a state workers' compensation insurance fund were quite confused by that point. Thus, it was bad enough to have the IRS poised to audit a number of state workers' compensation insurance funds, but when the IRS agents didn't even know what standards to apply to determine whether the funds were taxable, a number of the funds—those under audit as well as those not under audit—became concerned. That concern led them to petition Congress for clarification of the rules that are supposed to apply. The result was enacted in 1997 as § 501(c)(27)(B) of the Internal Revenue Code.

Under the new law, a state workers'

(W)hen the IRS agents didn't even know what standards to apply... a number of the funds became concerned.

compensation insurance fund can prove that it is exempt from Federal tax by showing that:

- It was created by state law, and it is organized and operated exclusively⁵ to provide state-mandated workers' compensation insurance and related, incidental coverage;

- It provides insurance to any state employer that seeks it (for employees in the State or temporarily assigned out-of-State) and meets other reasonable requirements;

- The state has made a financial commitment to the fund by either extending its full faith and credit to the fund's initial debt or providing the fund's initial operating capital;

- The fund's assets must revert to the state upon the fund's dissolution, or state law must not permit dissolution of the fund; and

- More than one-half of the fund's board of directors or oversight body are appointed by an executive branch official, by the state legislature, or by both.

The avowed purpose of Congress in enacting this legislation was to clarify the standards that are to be used to determine whether a state workers' compensation insurance fund is exempt from Federal income tax.

How well did Congress achieve its purpose? First, we should note that Congress did not wish to disturb the tax status of any state workers' compensation insurance fund. Perhaps realizing that it was not writing on a blank slate, Congress looked to *both* the integral part doctrine and § 115 of the Internal Revenue Code. Let's examine the factors un-

der § 501(c)(27)(B).

The first factor, that the fund have been created by state law, seems to come from the requirement in the integral part doctrine that an entity seeking exemption as an integral part of the state must have been created by the state.¹

The second standard, being an assured source of workers' compensation, seems to come from the requirement in § 115 that the organization perform

some essential governmental function. The phrase *essential governmental function* has never been defined,² but more-or-less it means that an organization should be doing something that a government can do. The second factor seems to treat being an assured source of workers' compensation insurance much like performing an essential governmental function.

The third and fourth standards speak to the state's relationship to the fund's finances. The integral part doctrine demands some substantial state investment in the entity that seeks to prove its entitlement to tax-exemption. Thus, the third standard looks for the a pledge of the state's full faith and credit or the provision of capital by the state to help the fund begin its operations.

To prove exemption under § 115, an organization must show that its income accrues to the state. In many cases, organizations can qualify for exemption under § 115, but they need their income for current operations. Consequently, the IRS will treat an organization as passing the accrual-of-income test if the organization's assets revert to the state upon the organization's dissolution. The fourth standard thus derives from the state financial interest test in § 115. One problem with the asset reversion test—many state workers' compensation insurance funds do not have provisions governing their dissolution. Those funds would have been left in the uncomfortable position of having to legally demonstrate something that the law did not provide for, *i.e.*, dissolution. As a result, the fourth standard was written in the disjunctive: a fund's assets must revert to the state on dissolution, but not

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The new U.S. Tax Law helps AASCIF members to keep cash in the hands of policyholders rather than in the coffers of the IRS.

The Tax Issue

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if state law does not provide for dissolution of the fund.

Remember the first standard? That the fund have been created by the state? We concluded that the first standard had been taken from integral part doctrine and represented the requisite essential governmental function. Well, the fifth standard, state appointment of the fund's governing board or other oversight body, also seems to come from the integral part doctrine's requirement of state control, and for the same reason as the first factor. As long as the Governor or Legislature appoints more than half of a fund's Board or other Oversight Body, then the integral part requirement of state control could be met.

So, how well did Congress achieve its objective? Presumably all state workers' compensation insurance funds were created by their states, and most are organized and operated exclusively to provide workers' compensation insurance and related incidental coverage, so the first standard can generally be satisfied. Again, most state workers' compensation insurance funds provide an assured source of workers' compensation insurance, so the second standard can generally be satisfied.

In only one case has a state extended its full faith and credit to the initial debts of a state workers' compensation insurance fund. In many, many cases, however, states have provided a means for funds to commence operations, *e.g.*, by direct contribution, by

loan, by exempting the fund from premium tax or some other state-imposed assessment or by exempting the fund from surplus requirements, so that the fund can write policies right away. Therefore the third standard seems to be met. The assets of some state workers' compensation insurance funds may revert to the state upon the fund's dissolution, but many funds have no provision on dissolution in their enabling acts, and in those cases state law does not permit dissolution. Consequently, the fourth standard can generally be met.

Finally, at least a majority of the boards of directors or the oversight bodies of many if not most funds are appointed by the Governor, although the state Legislature often has a hand in things, too, *e.g.*, by providing in the fund's enabling legislation that the chief executive officer will be an *ex officio* member of the board.

All things considered, Congress seems to have done a reasonably good job of sifting through and selecting from among existing criteria. The standards that Congress feels should be applied to state workers' compensation insurance funds seem to derive, for the most part, from the integral part doctrine, with some borrowing from § 115 in recognition of the nature and operations of state workers' compensation insurance funds.

Michael A. Bell is a partner in the Washington, D.C. office of LeBoeuf, Lamb, Greene & MacRae, L.L.P. He has worked with a number of state workers' compensation insurance funds on tax and other matters, and he was instrumental in bringing about the passage of I.R.C.

§ 501(c)(27)(B), the Internal Revenue Code provision that clarifies the tax-exempt status of many state workers' compensation insurance funds. Mr. Bell gratefully acknowledges the assistance of his associate, Angela J. Hulsey, in the preparation of this article.

ENDNOTES

1. *G.C.M. 14407, XIV-1 C.B. 103 (1935).*
2. *All statutory references in this article are references to the Internal Revenue Code of 1986 (the "Code").*
3. *G.C.M. 34704 (Dec. 2, 1971).*
4. *None less than the U.S. Supreme Court has held that, in this context, the term exclusively does not mean exclusively; it means predominantly. Better Business Bureau v. United States, 326 U.S. 279, 283 (1945).*
5. The "organized and operated" standard does not seem to come from either the integral part doctrine or § 115. It is a standard requirement under the Federal income tax laws governing exempt organizations, however.
6. Like *obscenity*, the courts seem to know it when they see it. *See Jacobellis v. Ohio, 378 U.S. 184, 197 (1964) (Stewart, J., concurring).*

Around AASCIF

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- An expanded anti-fraud public awareness campaign.
- Introduction of a computerized fraud tracking system and database. DCI is developing a system that will show arrests, convictions and savings obtained as a result of the division's anti-fraud efforts.
- System capabilities increasing DCI's ability to run computerized searches, cross-check files and develop a historical database giving investigators a state-wide view of fraudulent activities.
- Creation of a workers' compensation fraud manual for prosecutors. The manual outlines workers' compensation fraud and identifies statutes that can be used to prosecute cases.

NYC District Office Opens: The State Insurance Fund opened its first New York City district office in March 1999. In total, SIF plans to open five NYC-based district offices to handle the workload of its two New York City locations once decentralization efforts are completed. The creation of NYC district offices is part of SIF's overall plan to improve customer service through more efficient business practices. A key component of the safety group offices is the restructuring of operations into Policyholder Services units. Each unit consists of underwriters, auditors, and field service representatives. Separate claims personnel units are also being established. The restructuring is also being implemented at SIF's eight other district offices located throughout the state. ~*Bill Fonda (212) 312-7287*

Utah

Ecomp rollout: WCF has rolled out its next phase in "ecom" - a trademark for our various Internet technologies. Starting in February, WCF now offers its clients the ability to compile and complete OSHA logs via the Internet. One customer recently told us that work that formerly required two days could now be completed in twenty minutes.

Producers Rewarded: WCF recently calculated the winners for its 1999 "Top Producer" incentive trip. Fifteen producers and their spouses traveled to Rome and Venice for a seven days in April. This is WCF's fifth year of providing a major incentive trip to our best producing independent agents and brokers in conjunction with Morris Travel and Incentives.

Safety Rules!: As a follow-up, WCF has successfully launched its new community event, Safety Rules! The program challenges high school juniors and seniors to find new and inventive solutions to current workplace safety problems. Students will compete for scholarships and prizes. More than 50% of all Utah high schools have signed on to the program.

Olympic Coverage: WCF has signed a major, four-year agreement with the Salt Lake Olympic Committee. The agreement provides for insurance coverage as well a variety of unbundled risk management services—risk control and safety engineering claims management and IT adaptations. The agreement runs through the 2002 games.

West Virginia

Legislative Action: The 1999 Legislative session resulted in several amendments to the Workers' Compensation statute which become effective July 1. Sweeping reform legislation implemented in 1995 has resulted in significant gains in the reduction of the Workers' Compensation deficit. As a result, the Legislature made substantial reforms in its 1999 regular session which benefited both injured workers and employers. Employers will benefit from an amnesty provision designed to encourage employers to settle their past-due financial obligations. During a six-month period beginning July 1, 1999, certain employers whose accounts were in default as of December 31, 1998 may apply for a settlement of premium taxes. The amount due will include only premium and will not include penalties, interest or attorney fees. In order to take advantage of the amnesty provision, the employer must be able to pay all premium due in a lump sum or be able to pay the total obligation in payments within one year at 9% interest.

Injured workers may also benefit from a change regarding permanent disability awards. Under the 1999 amendment, the threshold for consideration of permanent total disability benefits was reduced from 50% whole-body medical impairment to 40% or 35% statutory disability based on a "total loss of severance" calculation set out in the statute. ~ *Cindy Grinstead (304) 558-4998*

Crisis Response: Dealing with Disaster

December 19, 1997

San Francisco Chronicle:

Hundreds Flee Blast in S.F. High-rise...3 electrical workers burned in basement fire...The 17-floor State Compensation Insurance Fund building at 1275 Market Street remains closed today for repairs after the fire at 2:07 p.m.... Workers said there was a loud explosion followed by a brief loss of power to the building. When power returned, building officials used the public address system to ask everyone to evacuate... "The boom scared me... Getting out was all right because we'd practiced."

HUMAN RESOURCES COMMITTEE

BY PATRICIA J. SMITH
CALIFORNIA STATE COMPENSATION
INSURANCE FUND

It could have been any company, in any city. But this crisis was ours. The following article highlights the human resource issues confronted, and lessons learned in response to the immediate disaster and resulting eight-week Home Office shut-down.

The urgent concerns are safety of employees, and caring for any injuries. Emergency preparedness enables quick, appropriate response. In our case good planning and frequent drills paid off. The building was evacuated in an orderly, calm and safe manner, and the emergency services were able to get in, get the

injured workers to the hospital and put out the fire.

Our in-house Employee Assistance Program played an immediate role, at the hospital providing support to the injured employees and their families, and at the building, calming fears and helping employees cope with the situation. The on-site presence of our EAP professionals was extremely valuable, but our communications were difficult because the telephone and voice mail system were disabled. Lesson learned: plan for emergency communications by providing cell phones and pagers for all critical staff.

Communications became the critical factor in dealing with employee issues. When evacuated, employees were told to go home. It was Thursday. It was quickly assessed that the building would not be functional the next day, and most employees were informed not to report until Monday. With very limited access to the building for management and emergency crews over the next few days, and no power for the telephone system and voice mail, emergency telephone lists with cell phone numbers, pagers and home numbers became the only way to communicate. Managers used telephone-trees to reach their staff, eventually informing them not to return to work until notified. The central switchboard number was re-routed to our Call Center, fortunately located in Southern California. This became the central call-in information point for employees and message distributor for management. Prepared messages were accessible through this system to inform employ-

ees of the building status. Lessons learned: maintain up to date emergency telephone lists, and keep them with you, not at your office. Establish a central emergency telephone number for call-in information and ensure that all employees know it.

What was first assessed to be a three or four day shut-down of the Home Office, grew to be more and more severe. Nobody suspected that it would be two months. A major challenge for our managers became dealing with the changing estimates, and the unknown. Remember, this was at holiday time, and a critical production period, with payroll reports, certificates of insurance, January renewals, and end-of-year processing. It was a question of determining what kind of emergency operation to put together, identifying the critical duties that had to be performed, for whatever the duration turned out to be. Top management became an ad hoc response planning team, with the Corporate Planning Officer identified as coordinator. When it became clear that with the limited amount of auxiliary power for the building, we would have to relocate operations and the vast majority of our employees, a tremendous undertaking was begun to find and enable alternate locations. Where would employees be located to get the work done? What equipment, files, and documents would they need? How would supervision be maintained? Lesson learned: contingency plans for disaster recovery should be flexible enough to deal effectively with unknown and changing situations. Clear roles and responsibilities, with back-up, should be established.

Critical functions identified by Human Resources included payroll, staffing and benefits transactions. In this situation we found it fortunate that the State Controller produces the paychecks for our State Fund. Our role was to provide the necessary input, no little task in itself with no power for our computers. With six work days until payday, we had to enter the building and start processing the paperwork. During the last days of December many employees were unable to work, others worked excessive hours, and even retirees came in to help with critical emergency functions. Employees in our district offices continued work, but we were not able to receive and process their time in Home Office. How was payroll to be determined? How would we get new, promoted, or transferred employees on the books? Where would Home Office paychecks be distributed? How would this be communicated to employees? Lesson learned: include payroll and staffing processing in disaster planning, including backup systems and critical data at an alternate location.

From the initial incident and as the weeks stretched on, the daily challenges, disruption and confusion took a physical and emotional toll on employees. A significant problem was the feeling of isolation and abandonment employees felt no matter where they were working - the temporary headquarters, a district office site, or at home. Our Employee Assistance Program responded by providing Critical Incident Stress Debriefing sessions at each alternate site. The

sessions started in January and reached many employees to assist them in understanding and coping with the stresses. Problems encountered included finding the space to provide the sessions, notifying employees, especially those working in remote locations and at home, in sufficient time for them to plan to attend. Lessons learned: get debriefing sessions scheduled as soon after the event as possible, and ensure that notice of them is adequately communicated.

The final human resource issue to be discussed here is recognition. How could we provide adequate recognition for the extraordinary efforts put out by our emergency teams, as well as for the dedicated employees at all levels who responded by getting as much of their work done as they could under very difficult circumstances?

During the entire time of power shutdown, we had employees in the building working in critical operations, in the cold and dark. As one put it, "You find yourself very tired at night cause you're cold all day, and your body is doing something to keep you warm, but it's making

you tired. When you work in an environment where you need to take a flashlight to the restroom, and you'd rather be in the elevator with the guard cause he has a flashlight, it's a different environment". We recognized the "Icicle Crew" by bringing in lunch, hot coffee and snacks. A special logo was designed, and put on sweatshirts for them. But most important of all, a spirit of camaraderie and ongoing appreciation was fostered by the supervisors.

Supervisory appreciation and support was just as important for employees working at the temporary headquarters and alternate sites. At the temporary headquarters, coffee and donuts were provided every day. Many supervisors brought in snacks and worked hard to keep in touch with their staff in remote locations. But there were employees who received very little communication and felt disengaged and abandoned. Lessons learned: there can never be too much appreciation from management and supervisors for employee efforts during an emergency situation. Management

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Missouri Gives Annual Workshop a Fine “Fair” well

Nearly 350 AASCIF delegates, sponsors and exhibitors converged on St. Louis May 2-6, for the AASCIF 99 Workshop, the last of its kind. Attendees were met with that special Missouri hospitality that made everyone feel welcome in the host Show-Me State.

As residents of the Show-Me State, Missouri Employers Mutual set out to do just that—show AASCIF attendees Missouri while providing a forum for the exchange of good information provided by the association’s committees. The week’s events included:

- The President’s Reception at the nation’s tallest man-made monument, the Gateway Arch. All who were game had the opportunity to take a tram 630 feet to the top of the Arch and view the Gateway City at night, a perspective others rarely get the opportunity to experience.
- Show-Me Missouri was on tap for Monday night. Guests were treated to the tastes and sounds of the various regions of Missouri and ended up rocking the City Museum with Elvis and Oliver Sain, a local blues band.
- The final night in St. Louis paid tribute to the 1904 World’s Fair and one of the events responsible for putting St. Louis on the map. Attendees donned 1904 period costumes and were greeted with



MEM President Dennis Smith, nattily attired for the 1904 World’s Fair Celebration that ended the 1999 Workshop, hands the well-traveled AASCIF jacket to Dwight Ward of New Mexico,

the sights, sounds and tastes of the fair.

As the final evening and the AASCIF 99 Workshop wound down, Dennis Smith, MEM president and CEO, thanked everyone for allowing Missouri to host the last official AASCIF Workshop. He then performed the traditional passing of the AASCIF jacket to New Mexico which hosts the Annual Conference in August.

The St. Louis workshop served as the final event of its kind. The organization will instead work to promote information exchange through workshops sponsored and run by AASCIF’s 10 committees. These valuable meetings are scheduled to be held in the fall. The schedule is on page 16.

Crisis Response

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needs to be on-site and visible, and ensure frequent communication with all off-site staff.

When the crisis is over, it is important to honor and acknowledge all employees. When our Home Office building was reopened, banners welcoming back the employees were hung in the lobby. A cake and coffee reception was hosted by the Executive Office. Departments hosted refreshments or pot-lucks for their returning staff. We were all relieved to be back, but there was an awkward feel at first, as teams came together again after months of separation. The celebrating and socializing was a very helpful step in transitioning back into the normal work environment.

We found that the celebration and welcoming back was not enough. Those employees who put out the extraordinary efforts, and worked long hours in the cold, dark building needed and deserved special recognition. In response, the Executive Committee hosted a luncheon of appreciation for those “heroic” employees identified by their managers. Two hundred in all attended, and were first to screen the video “Home Office: Trial by Fire” produced by our Communication and Education Center. President Ken Bollier delivered a special message of thanks, and each was given a letter of appreciation, copied for their personnel file.

Patricia J. Smith is Human Resources Manager at the California State Compensation Insurance Fund. She can be contacted at (415) 565-1168 or via e-mail at pjsmith@scif.com.

Welcome New AASCIF Members

National Council on Compensation Insurance (NCCI)

Deborah Lawrence
750 Park of Commerce Drive
Boca Raton FL

ISO

Al Weller
7 World Trade Center
New York, NY

Societe De L'Assurance Automobile Du Quebec

Marc Giroux
333 boulevard Jean-Lesage, S-4-24
Quebec City, Quebec

The Research Advantage

David Newsom
3300 Powell Street
Emeryville, CA

National Association of Insurance Commissioners (NAIC)

Deborah Scott
120 W. 12th Street, Suite 1100
Kansas City, MO

Travelers Property Casualty

Julia Stenberg
1 Tower Square
Hartford, CT

Trac Professionals

Patrick Hamilton
382 Main Street
Salem, NH

AASCIF on the Web

AASCIF	www.aascif.org
Alberta Workers' Compensation Board	www.wcb.ab.ca
Arizona State Fund	www.statefund.com
British Columbia Workers' Compensation Board	www.wcb.bc.ca
California State Compensation Insurance Fund	www.scif.com
Colorado Compensation Insurance Authority	www.colocomp.com
Idaho State Insurance Fund	www.state.id.us/isif
Kentucky Employers' Mutual Ins.	www.kemi.com
Louisiana Workers' Compensation Corp.	www.lwcc.com
Maine Employers' Mutual Ins. Co.	www.memic.com
Manitoba Workers' Compensation Board	www.wcb.mb.ca
Maryland Injured Workers' Insurance Fund	www.iwif.com
Minnesota State Fund Mutual Insurance Co.	www.sfmic.com
Montana State Compensation Insurance Fund	statefund.state.mt.us
New Brunswick Wkplce. Health, Safety and Comp.	www.gove.nb.ca/whscc
Newfoundland Workers' Compensation Board	www.wcc.nf.ca
Employers' Insurance Company of Nevada	www.employersinsco.com
New Mexico Mutual	www.nmmcc.com
New York State Fund	www.nysif.com
Nova Scotia Workers' Compensation Board	www.wcb.ns.com
Ohio Bureau of Workers' Compensation	www.ohiobwc.com
Oklahoma State Insurance Fund	one.net/~osif
Ontario Workers' Compensation Board	www.wcb.on.ca
Oregon SAIF Corporation	www.saif.com
Pennsylvania State Workers' Insurance Fund	www.li.state.pa.us/swif
Quebec - Commission de la Securite du Travail	www.csst.qc.ca
Saskatchewan Workers' Compensation Board	www.wcbsask.com
Texas Workers' Compensation Insurance Fund	www.txfund.com
Washington Department of Labor and Industries	www.wa.gov/lni
West Virginia Bureau of Employment Programs	www.state.wv.us/bep
Workers' Compensation Fund of Utah	www.wcf-utah.com
Wyoming Workers' Safety and Comp. Div.	wydoe.state.wy.us/wscd

1999 ANNUAL CONFERENCE

August 15-19
 Albuquerque, NM
 For more information,
 contact Patricia McCarthy at (505) 343-2804

SPECIALTY COMMITTEE MEETINGS

Committee	Meeting Dates	Location
Audit & Statistics	November 2 and 3	Costa Mesa, CA
Claims & Rehab <i>(w/Law)</i>	October 3 through 6	Myrtle Beach, SC
Communications	September 30 to October 1	Providence, RI
Finance & Investments	September 8 through 10	Scottsdale, AZ
Human Resources	September 16 and 17	Seattle, WA
IT <i>(w/Policyholder Servc.)</i>	October 14 through 16	Myrtle Beach, SC
Law <i>(w/Claims)</i>	October 3 through 6	Myrtle Beach, SC
National Issues <i>(w/Finance)</i>	September 8 through 10	Scottsdale, AZ
Policyholder Services	October 14 through 16	Myrtle Beach, SC
Safety & Health	September 22 through 24	Reno/Tahoe, NV