

**U.S. Department of Labor**

Labor-Management Services Administration  
Washington, D.C. 20216



OPINION 80-49A  
4(b)(4)  
3(10)

AUG 13 1980

Mr. William C. Loud  
Loud, Watts & Murnan  
P.O. Box 1686  
St. Thomas  
U.S. Virgin Islands 00801

Dear Mr. Loud:

This is in response to your letter of May 3, 1979, regarding coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you question whether the Loud, Watts & Murnan Keogh Plan is covered by ERISA. You advise that, it is your understanding that, since Loud, Watts & Murnan is located in the U.S. Virgin Islands (Virgin Islands) you are not required to file a Form 5500 with the Department of Labor.

Section 4(a) of ERISA provides that generally title I will apply to any employee benefit plan established or maintained by an employer engaged in commerce or in any industry or activity affecting commerce or by any employee organization representing employees engaged in commerce or in any industry or activity affecting commerce, or by both. Exceptions to this general provision are provided in section 4(b), and exceptions to parts 2, 3, and 4 of title I are provided in sections 201, 301, and 401 of ERISA, respectively. Although section 4(b)(4) exempts a plan "maintained outside of the United States primarily for the benefit of persons substantially all of whom are nonresident aliens," the term "United States," as defined in section 3(10), specifically includes the Virgin Islands. As a result, the exemption contained in section 4(b)(4) does not apply to plans maintained in the Virgin Islands.

Thus, title I of ERISA, including part 1 of that title, pertaining to the reporting and disclosure requirements, covers plans of employers located in the Virgin Islands. Therefore, it is the position of the Department of Labor that the Loud, Watts & Murnan Keogh Plan is not excluded from coverage under title I solely by virtue of being established or maintained in the Virgin Islands.

This letter constitutes an advisory opinion under ERISA Procedure 76-1 (copy enclosed). Accordingly, this letter is issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Copies of Form 5500 will be sent to you under separate cover.

Sincerely,

Ian D. Lanoff  
Administrator  
Pension and Welfare Benefit Programs

Enclosure