Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

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Contact Person:

Telephone Number:

In Reference to:
T:EP:RA:T:A1

Date: DEC 13 1999

In re:

This letter constitutes notice that with respect to the above-named defined benefit pension plan, conditional waivers of the 100 percent excise tax under section 4971(b) of the Internal Revenue Code have been granted for the tax and plan years ended December 31, 1995, 1996 and 1997.

The conditional waivers of the 100 percent excise tax have been granted in accordance with section 3002(b) of the Employee Retirement Income Security Act of 1974 (ERISA). The amount for which these excise tax waivers have been granted is equal to 100 percent of the contribution which would otherwise be required to reduce the balance in the funding standard account to zero as of the end of the plan years ending December 31, 1995, 1996 and 1997. Of course, because we have waived the 100% excise tax for these two years, the penalties and interest associated solely with respect to the excise taxes under section 4971(b) of the Code will be zero.

Originally, the company requested a waiver of the minimum funding standard under section 412 of the Code for the plan year ended December 31, 1997. However, the plan is being terminated in a distress termination and the business hardship did not appear to be temporary. The company was informed of our tentative denial of the request for the minimum funding waiver and was offered a conference of right. A telephone conference was held on November 17, 1999. The company then decided to withdraw its request for a waiver of the minimum funding standard for the plan year ended December 31, 1997 and to request waivers of the 100% excise tax under section 4971(b) of the Code. This decision was confirmed in your facsimile transmission of December 8, 1999.

The minimum funding standard under section 412 of the Code and section 302 of ERISA will apply to the plan for the plan years ended December 31, 1995, 1996 and 1997. Based on the information submitted, there are accumulated funding deficiencies, as of December 31, 1995, 1996 and 1997, for the plan on which a 10% tax is imposed, under section 4971(a) of the Code. The enclosed Forms 5330 (Return of the Excise Taxes Related to Employee Benefit Plans) with instructions should be used to file the required returns when paying the taxes.

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The waivers of the 100% excise tax are conditioned upon, that within one year from the date of this letter, the company will (1) pay the excise taxes under section 4971(a) for the plan years ended December 31, 1995, 1996 and 1997 and (2) reach a settlement with the PBGC on a distress termination of the plan. You agreed to these conditions in your conference of right on November 17, 1999. If these conditions are not satisfied, the waivers are retroactively null and void.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used by others as precedent.

A copy of this letter should be sent to the enrolled actuary for the plan. We have sent a copy to the Acting Area Manager for Employee Plans in

Sincerely yours,

Carol D. Gold, Director
Employee Plans
Tax Exempt and Government Entities
Division

Enclosures

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