Internal Revenue Service

Significant Index No. 420.00-00

Department of the Treasury

Washington, DC 20224

200112063

Contact Person:

Telephone Number:

In Reference to:

T:EP:RA:T:A1

Date: DEC 27 2000

Re: Ruling request on behalf of the

Taxpayer =

Subsidiary =

Retirement Plan =

Medical Plan =

This is in reply to a ruling request, as modified, made on your behalf by your authorized representative, that statutory Benefits (as defined below) are "applicable health benefits" under section 420(e)(1)(C) of the Internal Revenue Code of 1986 (the "Code").

348

Facts

The Taxpayer is required to pay medical benefits to certain former employees of its Subsidiary under the following statutes.

(1) the Coal Industry Retiree Health Benefit Act of 1982 (the "Coal Act")
(2) the Black Lung Benefits Act of 1972 (the "Black Lung Act"), which incorporates certain provisions of the Longshore and Harbor Workers' Compensation Act of 1984(the "Longshore Act"), (collectively the "Federal Black Lung Law") and
(3) the Illinois Workers' Occupational Diseases Act of 1951 (the Illinois Black Lung Law")

Benefits paid under these statutes are referred to hereinafter as "Statutory Benefits". The Taxpayer is presently paying all Statutory Benefits out of its general assets.

Some of the individuals receiving Statutory Benefits are also participants in the Medical Plan sponsored by the Taxpayer. In general, the Medical Plan excludes services furnished by any government agency, including benefits provided under Medicaid, Federal Medicare, and Federal and State Black Lung legislation for which a beneficiary is eligible or upon proper application would be eligible.

The Retirement Plan provides for the maintenance of an account to provide medical benefits as described in section 401(h) of the Code (the "401(h) account"). The medical benefits provided by the 401(h) account are those under the Medical Plan. Benefits were paid under the Medical Plan in 1999 through a transfer described in section 420 of the Code to the 401(h) account.

Subject to a receipt of a favorable ruling from the Service on this ruling request, the Medical Plan has been amended to provide that the Statutory Benefits will be included in the Medical Plan. The Taxpayer then intends to make a transfer to the 401(h) account as described in section 420 of the Code to provide medical benefits under the Medical Plan for the year 2000, including Statutory Benefits.

Law

Internal Revenue Code

Section 401(h) provides that a pension plan may provide for the payment of benefits for sickness, accident, hospitalization, and medical expenses of retired employees, their spouses, and their dependents, if certain conditions are met.

Section 420(a) provides that if there is a qualified transfer of any excess pension assets of a defined benefit plan to a health benefits account which is part of such a plan a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) solely by reason of such transfer.

Section 420(b)(1)(C)(i) provides, in pertinent part, that a qualified transfer must meet the use requirements of section 420(c)(1).

Section 420(c)(1) provides that any assets transferred to a health benefits account in a qualified transfer shall be used only to pay qualified current retiree health liabilities for the taxable year of transfer.

Section 420(e)(1)(A) defines the term "qualified current retiree health liabilities", with respect to any taxable year, as the aggregate amount that would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if (i) such benefits were provided directly by the employer and (ii) the employer used the cash receipts and disbursements method of accounting.

Section 420(e)(1)(C) defines the term "applicable health benefits" to mean health benefits or coverage which is provided (i) to retired employees who immediately prior to a qualified transfer, are entitled to receive such benefits or coverage upon retirement and who are entitled to pension benefits under the plan and (ii) to such retired employees' spouses and dependents.

The Coal Act

Section 9702(a) of the Coal Act established the United Mine Workers of America Combined Benefit Fund (the "Combined Fund").

Section 9702(a)(3)(B) provides that the Combined Fund shall be an employee welfare benefit plan within the meaning of section 3(1) of ERISA.

Section 9703(b) provides that eligible beneficiaries of the Combined Fund will receive health care benefits under a health care services plan.

Section 9703(c) provides that eligible beneficiaries of the Combined Fund shall receive death benefit coverage which is identical to the benefits provided under the 1950 UMWA Pension Plan or 1974 UMWA Pension Plan, whichever is applicable; on July 20, 1992,

Section 9704(a) provides that each operator shall pay to the Combined Fund an annual premium equal to the sum of a health benefit premium, a death benefit premium, and an unassigned beneficiaries premium.

Section 9704(b)(1) provides that each operator shall pay to the Combined Fund a health benefit premium equal to the product of the per beneficiary premium for the plan year multiplied by the number of the eligible beneficiaries assigned to such operator under Section 9706 of the Coal Act

The Federal Black Lung Law

Section 932 of the Black Lung Act provides that certain provisions of the Longshore Act are applicable to coal mine operators with respect to death or total disability due to pneumoconiosis arising out of employment in a coal mine.

Section 907 of the Longshore Act provides that employers shall furnish such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus, for such period as the nature of the injury or the process of recovery may require.

Section 725.701 of Title 20 of the Code of Federal Regulations of the Federal Coal Mine Health and Safety Act of 1977 (the" Coal Health Act") provides that an operator shall provide a miner with such medical, surgical, and other attendance or treatment, nursing and hospital services, medicine and apparatus, for such periods as the nature of the miner's pneumoconiosis and ancillary pulmonary conditions and disability may require.

Section 725.704 of Title 20 of the Code of Federal Regulations of the Coal and Health Act provides that if an operator is liable for the payment of benefits to a miner such operator will notify the miner and the medical care providers chosen that such operator will be responsible for the cost of services provided to the miner on account of the miner's total disability due to pneumoconiosis.

Illinois Black Lung Law

Section 820 Ill. Comp. Stat. 310/7 provides that if any employee sustains any disablement, impairment, or disfigurement, or dies and his or her disability, impairment, disfigurement, or death is caus6ed by a disease aggravated by an exposure of the employment or by an occupational disease arising out of and in the course of his or her employment, such employee or such employee's dependents shall be entitled to compensation, medical, surgical, hospital and rehabilitation care, prosthesis, burial costs, and all other benefits, rights and remedies, in the same manner, to the same extent, and subject to the same

terms, conditions and limitations, as are now or may hereafter be provided by the Illinois Workers Compensation Act for accidental injuries sustained by employees arising out of and in the course of their employment.

For the purposes of this submission, Statutory Benefits paid under the Coal Act will be limited to payments under section 9704(b) of the Coal Act. Coal Act payments under section 9704(c) and 9704(d) will not be considered Statutory Benefits.

For the purposes of this submission, Statutory Benefits paid under Federal Black Lung Law and Illinois Black Lung Law will be limited to medical benefits that are consistent with the sickness, hospitalization, and medical expenses referred to in section 401(h) of the Code and are consistent with the health benefits described in section 420(e)(1)(C) of the Code.

Analysis

Under Section 420(e)(1)(C), "applicable health benefits" must meet the following three requirements:

(1) they must be health benefits or coverage
(2) such health benefits or coverage must be provided to retired employees who immediately before the qualified transfer are entitled to receive such benefits or coverage upon retirement
(3) such retired employees must be entitled to receive pension benefits under the plan in question

Statutory Benefits include (a) premium payments for health care coverage under the Coal Act, (b) medical surgical and other treatment, nursing and hospital services, medicine and apparatus any other medical service or supply under the Federal Black Lung Law, and (c) medical, surgical, and hospital benefits under the Illinois Black Lung Law. Statutory Benefits, as defined above, are "health benefits or coverage" within the meaning of section 420(e)(1)(c).

Because the Statutory Benefits are available to employees who, immediately before the transfer, are entitled to receive such benefits upon retirement, the second requirement of section 420(e)(1)(C) is satisfied. Finally, because the individuals entitled to receive the Statutory Benefits are entitled to receive pension benefits under the Retirement Plan, the third requirement of section 420(e)(1)(c) is satisfied. Therefore the Statutory Benefits are applicable health benefits under Section 420(e)(1)(C).

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

Sincerely,

James E. Holland, Jr.
Manager, Actuarial Group 1
Tax Exempt and Government
Entities Division