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Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Contact Person:

Telephone Number:

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

Date: MAR 12 2001

In re:

This letter constitutes notice that with respect to the above-named defined benefit pension plan, waivers of the 100 percent excise tax under § 4971(b) of the Internal Revenue Code have been granted for the tax years ended August 31, 1998-2001. In addition, our letter dated October 25, 1996, as modified by our ruling letter dated May 28, 1999, waiving the minimum funding standard for the plan year ended August 31, 1996 has been modified as described below.

The waivers of the 100 percent excise tax have been granted in accordance with § 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 August 31, 1998-2001. Of course, because we have waived the 100% excise tax for these four years, the penalties and interest associated solely with respect to the excise taxes under § 4971(b) of the Code will be zero.

Originally, the company requested a waiver of the minimum funding standard under § 412 of the Code for the plan year ended August 31, 2000. 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. The company then decided to withdraw its request for a waiver of the minimum funding standard for the plan year ended August 31, 2000 and to request waivers of the 100% excise tax under § 4971(b). This decision was confirmed in your authorized representative's facsimile transmission of March 6, 2001.

The minimum funding standard under § 412 of the Code and § 302 of ERISA will apply to the plan for the four plan years ended August 31, 1998-2001. Based on the information submitted, there are accumulated funding deficiencies, as of August 31, 1999 and 2000, for the plan on which a 10% tax is imposed, under § 4971(a) of the Code. The company stated that it has paid the 10% excise tax for the plan year ended August 31, 1999. The enclosed Form 5330 (Return of the Excise Taxes Related to Employee Benefit Plans) with instructions should be used to file the required return when paying the tax for the plan year ended August 31, 2000.

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In addition, our ruling letter of October 25, 1996, as modified by our ruling letter dated May 28, 1999, has been modified to remove Condition 1 (the company will make contributions necessary to satisfy the minimum funding standard under the plan for the plan years ending August 31, 1997 through August 31, 2001).

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 of this letter to your authorized representative in accordance with a Power of Attorney (Form 2848) on file with our office. We have sent a copy to the Employee Plans Area Manager for the Area Office in

Sincerely,

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

Enclosures