Significant Index Nos. 0412.06-00 and 04971.02-00

200342005

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

T:EP:RA:T:A1

July 22, 2003

In re:

Company =

Date1 =

Date2=

Date3 =

Dear

This is in reply to your requests of January 10, 2002, for a waiver of the minimum funding standard for the plan year beginning January 1, 2001, for the above-referenced plan, and April 17, 2003, for waivers of the 10 percent and 100 percent excise taxes on the uncorrected funding deficiency.

The information furnished indicates that the Company filed a petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code in Bankruptcy Court on Date1, and that subsequently, on Date2, the assets of the Company were sold in an asset sale.

The information also indicates that an agreement was reached with the Pension Benefit Guaranty Corporation (PBGC) on Date3 to terminate the Plan with a plan termination date of Date2. The PBGC is now statutory trustee of the Plan.

The information furnished failed to demonstrate that the hardship was temporary, and a denial of your request for a funding waiver was proposed and a conference of right was offered. You, in anticipation of a final denial of your request for the funding waiver, subsequently requested waivers of the 10 percent excise tax under section 4971(a) of the Internal Revenue Code (Code) and the 100 percent excise tax under section 4971(b) of the Code, and requested a conference of right.

A telephone conference was held on June 17, 2003. At the conference you accepted our position that you did not meet the statutory requirements for a funding waiver for the Plan. Therefore, our tentative denial of your request for a funding waiver for the plan year beginning January 1, 2001, is now final.

With respect to your request of April 17, 2003, for a waiver of the 100 percent excise taxes on the uncorrected funding deficiency, this letter constitutes notice that with respect to the above-named defined benefit pension plan, waivers of the 100 percent excise tax under section 4971(b) of the Code have been granted for the excise taxes that would otherwise apply with respect to the plan years beginning January 1, 2001, and January 1, 2002.

The 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 of the funding standard account to zero as of the end of each of the applicable plan years for which a waiver is granted to the extent such deficiency has not been corrected. Of course, because we have waived the 100% excise tax for these three years, the penalties and interest associated with respect to the excise taxes under section 4971(b) of the Code will be zero.

With respect to your request of April 17, 2003, for a waiver of the 10 percent excise taxes on the uncorrected funding deficiency, there is no statutory provision similar to section 3002(b) of ERISA that permits us to waive the excise tax of section 4971(a) of the Code. Accordingly, your request for waivers of the applicable 10 percent excise taxes under section 4971(a) of the Internal Revenue Code has been denied.

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 or cited by others as precedent.

A copy of this letter is being sent to your authorized representative in accordance with a power of attorney (Form 2848) on file. A copy of this letter is also being sent to the Manager, Employee Plans Classification in . A copy of this letter should be furnished to the enrolled actuary for the plan.

If you have any questions on this matter, please contact

Sincerely,

Norman Greenberg, Manager
Employee Plans Actuarial Group 1