



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

JUL 09 2004

T:EP:BA.T:A2

In re: :

Company =

Owners =

This letter is in response to your request of January 19, 2004, for a waiver of the 10% excise tax on the accumulated funding deficiency for the plan year ended December 31, , and for waivers of the 100% excise tax on the accumulated funding deficiencies for the plan years ended December 31, , and

With respect to the waivers of the 100% excise taxes on the accumulated funding deficiencies for the plan years ended December 31, , , and , this letter constitutes notice that with respect to the above named pension plan, waivers of the 100% excise tax under section 4971(b) of the Internal Revenue Code (Code) have been granted for the excise taxes that would otherwise apply for the plan years ended December 31, , and .

The waivers of the 100% 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% 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 the excise taxes under section 4971(b) of the Code will be zero.

With respect to the request to waive the 10% excise tax on the accumulated funding deficiency for the plan year ended December 31 (the Company has paid the 10% excise taxes due under section 4971(a) for the plan years ended December 31 and , there is no statutory provision similar to section 3002(b) of ERISA that permits us to waive the 10% excise tax under section 4971(a) of the Code. Accordingly, your request for a waiver of the 10% excise tax on the accumulated funding deficiency for the plan year ended December 31, , has been denied.

According to the information received, the Plan was terminated on July 31 . At all times since the inception of the Plan, the only Plan participants have been the Owners. At all times prior to the end of , the sole shareholders, directors, officers and employees of the Company were the Owners. On , the Owners were divorced. The Plan remains the subject of litigation in divorce court.

It should be noted that the accumulated funding deficiency is not required to be eliminated as a condition of Plan qualification.

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 the authorized representatives listed on the power of attorney (Form 2848) on file with this office. A copy of this letter is also being sent to the Employee Plans Classification Manager in .

If you have any questions concerning this matter, please contact

Sincerely,



Donna M. Prestia, Acting Manager
Employee Plans Actuarial Group 2