



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201832020

MAY 15 2018

T: EP: RA: A2

In re:

(Plan)

EIN: - , Plan

Initial Approval =

Modification =

Amendment =

Dear :

This letter is in response to your request of April 13, 2017 for the following rulings with regard to the above Plan:

- (1) That the Initial Approval and Modification granting conditional approval for a 10-year extension for amortizing the unfunded liabilities described in section 412(b)(2)(B) of the Internal Revenue Code (Code) and section 302(b)(2)(B) of the Employee Retirement Income Security Act of 1974 (prior to amendment by the Pension Protection Act of 2006), be modified to provide that if any of the conditions set forth in either the Initial Approval or Modification are not satisfied, the approval to extend the amortization periods of the unfunded liabilities shall not apply to any plan year ending on or after the date the condition is not satisfied.
- (2) That, because the Plan has been in critical and declining status since January 1, , and because the plan sponsor has adopted and complied with a rehabilitation plan as required under section 432 of the Code, effective January 1, , the Fund's contributing employers are not subject to the minimum funding requirements set forth in section 412(b)(1) of the Code.

- (3) That, should the Internal Revenue Service (Service) choose not to grant the relief requested in paragraphs (1) and (2) above, the Service rule that the Amendment is neither reasonable nor de minimis under section 412(c)(7) of the Code, and therefore renders the Service's prior grants of relief under section 412 of the Code void prospectively, effective January 1,

Request (1)

Approval to modify the Initial Approval and Modification has been granted. These rulings have been modified to:

- (a) Replace the language in the Initial Approval stating that, "If any one of these conditions is not satisfied, the approval to extend the amortization periods for amortizing the unfunded liabilities would be retroactively null and void," with "If any one of these conditions is not satisfied, the approval to extend the periods for amortizing the unfunded liabilities shall not apply to any plan year ending after the date the condition is not satisfied."
- (b) Eliminate the language in the Modification stating that "If any one of these conditions is not satisfied, the approval to extend the amortization periods of the unfunded liabilities would be null and void, retroactive to January 1," with "If any one of these conditions is not satisfied, the approval to extend the periods for amortizing the unfunded liabilities shall not apply to any plan year ending after the date the condition is not satisfied."

Based on information submitted with your request, we understand that the Plan first failed to meet two of the conditions in the Modification effective beginning with the plan year. Therefore, the approval to extend the amortization periods for amortizing the unfunded liabilities does not apply to the plan year and all subsequent plan years.

As discussed, for the first plan year in which the amortization extension is no longer applicable, the Plan's funding standard account must be redetermined as if the extension had never been granted, and the resulting shortfall must be added to the funding standard account as a one-time "make-whole" charge.

Accordingly, the following steps must be taken in determining the funding standard account as of the beginning of the plan year in which it becomes prospectively null and void (the "Revocation Date," based on information submitted with your request, is January 1,).

1. Effective as of the Revocation Date, the remaining balance of each extended amortization base is redetermined as the balance that would exist if the extension had not been granted (hereinafter, the "Redetermined Prospective Revocation Balance"). For this purpose, if as of the Revocation Date, the base

would have been fully amortized had the extension not been granted, the Redetermined Prospective Revocation Balance on account of such base as of the Revocation Date shall equal \$0.

2. There is a one-time charge to the funding standard account at the Revocation Date on account of each extended amortization base equal to the excess of (A) over (B), where:
 - A. Is the actual balance of the extended amortization bases determined as if the amortization extension were still in effect on the Revocation Date. Note that the balance of each extended amortization base is determined as the prior year's balance less the prior year's extended amortization payment, with the result brought forward with interest at the prior year's IRC 6621(b) rate.
 - B. Is the Redetermined Prospective Revocation Balance.

The funding standard account includes interest on this one-time charge to the end of the plan year, using the valuation interest rate for the plan year that includes the Revocation Date.

3. The annual amortization charge at the Revocation Date for each amortization base that was previously extended shall be redetermined by amortizing each Redetermined Prospective Revocation Balance over the remaining amortization period, determined without regard to the extension previously granted under section 412(e) of the Code. The resulting amortization charges would be determined using the applicable valuation interest rate at the Revocation Date. Note that if the Redetermined Prospective Revocation Balance of an extended base is \$0, there is no amortization charge with respect to such base at the Revocation Date.
4. At the Revocation Date, the reconciliation account shall be redetermined as if the amortization extension had never been approved.

This modification carries out the purposes of ERISA, and protects participants. Based on the information submitted with your request, the failure to provide this modification to the extension would be a substantial risk to the continuation of the plan and would be adverse to participants' interests.

According to information submitted with your request, the Plan has been in critical status as described in section 432(b)(2) of the Code since the _____ plan year, and has been in critical and declining status as described in section 432(b)(6) since the _____ plan year. Please note that the funding standard account described in section 431(b) of

201832020

the Code must continue to be maintained, regardless of whether or not the plan is in critical status.

It is our understanding that the Plan had not failed any of the requirements in paragraphs (2), (3), or (4) of section 4971(g) of the Code as of the time your request was submitted. Accordingly, no tax under section 4971 shall be imposed for the plan year and all subsequent plan years in which the Plan is in critical (or critical and declining) status and has not failed any of the requirements in paragraphs (2), (3), or (4) of section 4971(g) of the Code.

Request (2)

The Service declines to rule on whether the Fund's contributing employers are subject to the minimum funding requirements set forth in section 412(b)(1) of the Code while the Plan is in critical status. We believe that this request is unnecessary because the Service is ruling favorably on request (1) above.

Request (3)

The Service declines to rule on your request to rule that the Amendment is neither reasonable nor de minimis under section 412(c)(7) of the Code. This request is unnecessary because the Service is ruling favorably on request (1) above.

We have sent a copy of this letter to the Manager, EP Classification in Baltimore, Maryland; and to the Manager, EP Compliance Unit in Chicago, Illinois.

If you require further assistance in this matter, please contact
(ID#) at () - .

Sincerely yours,

David M. Ziegler, Manager Employee
Plans Actuarial Group 2

cc: Manager, EP Classification
Baltimore, Maryland

Manager, EP Compliance Unit
Chicago, Illinois