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Department of the Treasury

Washington, DC 20224

[Third Party Communication:

Date of Communication: Month DD, YYYY]

Person To Contact:

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CC:EEE:EB:QP3

PLR-115320-24

Date:

March 12, 2025

LEGEND

Taxpayer =

Retirement Plan A =

Retirement Plan A's =

401(h) Account =

Retiree Medical Plan =

Amount 1 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear :

This is in response to your letter dated August 22, 2024, as supplemented by information dated January 14, 2025 and February 13, 2025, submitted on your behalf by your authorized representatives, in which you request a private letter ruling regarding whether the return of assets from an account maintained under section 401(h) of the Internal Revenue Code to the employer impacts the tax-qualified status of a pension plan under section 401(a).

Facts

The following facts and representations have been submitted under penalty of perjury in support of the requested ruling:

Taxpayer maintains a pension plan (Retirement Plan A). Retirement Plan A is frozen. Retirement Plan A received its most recent determination letter on Date 1.

Retirement Plan A has a retiree medical account in accordance with section 401(h) (Retirement Plan A's 401(h) Account). Retirement Plan A's 401(h) Account funds a retiree medical plan (Retiree Medical Plan). The Retiree Medical Plan is available to a closed group of retirees who retired before Date 2, were eligible to retire on Date 2, or were part of a reduction in force announced on Date 3.

Retirement Plan A requires that any Retirement Plan A 401(h) Account assets remaining following the satisfaction of medical benefit liabilities under Retirement Plan A must be returned to the Taxpayer.

Taxpayer terminated Retirement Plan A as of Date 4. When Retirement Plan A was terminated, all of its liabilities and liabilities under the Retiree Medical Plan were satisfied. However, even after all of the liabilities were satisfied, assets in the amount of Amount 1 remained in Retirement Plan A's 401(h) Account. Taxpayer represents that Amount 1 will be returned to Taxpayer in accordance with the terms of Retirement Plan A, and Taxpayer will pay an excise tax on Amount 1 in accordance with section 4980.

Ruling Requested

Taxpayer requests a ruling that the return of Amount 1 to Taxpayer following the termination of Retirement Plan A (including Retirement Plan A's 401(h) Account) does not violate section 401(h) or § 1.401-14, or otherwise jeopardize Retirement Plan A's tax-qualified status under section 401(a).

Law

Section 401(a) describes requirements for a qualified trust that is created or organized in the United States and forms part of a pension plan of an employer that is for the exclusive benefit of the employer's employees or their beneficiaries. Section 501(a) provides in pertinent part that an organization described in section 401(a) is generally exempt from income tax.

In pertinent part, section 401(h) provides that, under regulations prescribed by the Secretary, and subject to the provisions of section 420, a pension or annuity plan may provide for the payment of benefits for sickness, accident, hospitalization, and medical expenses of retired employees, their spouses and their dependents, but only if —

- (1) such benefits are subordinate to the retirement benefits provided by the plan,
- (2) a separate account is established and maintained for such benefits,

(3) the employer's contributions to such separate account are reasonable and ascertainable,

(4) it is impossible, at any time prior to the satisfaction of all liabilities under the plan to provide such benefits, for any part of the corpus or income of such separate account to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of such benefits, and

(5) upon the satisfaction of all liabilities under the plan to provide such benefits, any amount remaining in such separate account must, under the terms of the plan, be returned to the employer.

Section 1.401-14(a) provides that, under section 401(h), a qualified pension or annuity plan may provide for the payment of sickness, accident, hospitalization, and medical expenses for retired employees, their spouses, and their dependents. The term "medical benefits described in section 401(h)" is used in this section to describe such payments.

Section 1.401-14(c)(5), entitled "[r]eversion upon satisfaction of all liabilities," provides that, under section 401(h), a qualified pension or annuity plan must provide that any amounts which are contributed to fund medical benefits described in section 401(h) and which remain in the medical benefits account upon satisfaction of all liabilities arising out of the operation of the medical benefits portion of the plan are to be returned to the employer.

Section 4980(a) provides for a 20% excise tax on the amount of any employer reversion from a qualified plan. Section 4980(d) provides that section 4980(a) will be applied by substituting "50 percent" for "20 percent" with respect to any employer reversion from a qualified plan unless (A) the employer establishes or maintains a qualified replacement plan under section 4980(d)(2), or (B) the plan provides benefit increases meeting the requirements of section 4980(d)(3).

Section 4980(c)(2)(A) defines an employer reversion as the amount of cash and the fair market value of other property received (directly or indirectly) by an employer from the qualified plan.

Analysis

As stated above, section 401(h)(5) and § 1.401-14(c)(5) require that a qualified pension or annuity plan must provide that any amounts which are contributed to fund medical benefits under section 401(h), and which remain in the section 401(h) account after all liabilities under the plan are satisfied, must be returned to the employer.

Here, Retirement Plan A is drafted in accordance with the requirements described in section 401(h)(5) and § 1.401-14(c)(5) because it requires that any Retirement Plan A

401(h) Account assets remaining following the satisfaction of medical benefit liabilities funded by Retirement Plan A's 401(h) Account must be returned to the Taxpayer. Further, Taxpayer represents that following the termination of Retirement Plan A's 401(h) Account, Amount 1 will be returned to Taxpayer in accordance with the terms of Retirement Plan A, and that Taxpayer will pay the excise tax under section 4980.

Ruling

We conclude that the return of Amount 1 to Taxpayer following the termination of Retirement Plan A (including the termination of Retirement Plan A's 401(h) Account) does not violate section 401(h) or § 1.401-14, or otherwise jeopardize Retirement Plan A's tax-qualified status under section 401(a).

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2024 1, 2024 1 IRB 1, § 7.01(16)(b). This office has not verified any of the material submitted in support of the request for ruling, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2024 1, § 11.05.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter ruling.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Jeremy Lamb
Senior Counsel
Qualified Plans Branch 2
Office of Associate Chief Counsel
(Employee Benefits, Exempt
Organizations, and Employment Taxes)

cc: