



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

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AUG 24 2005

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Contract Plan = :
(Plan No. 004)

Salaried Plan = :
(Plan No. 001)

Company =

Union =

This letter is in response to your request for a ruling concerning the Pilot Plan which was submitted by your authorized representative on February 25, 2005. Specifically, you asked us to rule on the following issue:

Whether, because funding waivers are in effect for the Contract and Salaried Plans, the Pilot Plan is subject to the restriction on plan amendments contained in section 412(f)(1) of the Internal Revenue Code ("Code") and section 302(b)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA")?

According to facts stated in your ruling request, the Pilot, Contract, and Salaried Plans are qualified defined benefit pension plans. Each Plan provides collectively-bargained pension benefits for its participants. On April 15, 2003, the Contract and Salaried Plans received waivers of the minimum funding standard under section 412(d) of the Code and section 303 of ERISA for the Plan years beginning January 1, [REDACTED]. No funding waiver is currently in effect for the Pilot Plan.

The Union represents the participants of the Pilot Plan for collective bargaining purposes. The participants of the Contract and Salaried Plans are not represented by the Union for collective bargaining purposes. Furthermore, no participant in the Pilot Plan can concurrently accrue a benefit in either the Salaried Plan and/or Contract Plan, and no participant in either the Salaried and/or Contract Plan can concurrently accrue a benefit in the Pilot Plan.

The Company believes that the Pilot Plan is not subject to section 412(f)(1) of the Code and section 303(b)(1) of ERISA because no funding waiver is in effect and because it does not cover substantially the same employees as covered by the Salaried and Contract Plans, for which funding waivers are in effect.

Section 412(f)(1) of the Code and section 304(b)(1) of ERISA provide that if a waiver of the minimum funding standard under section 412(d) of the Code and section 303 of ERISA is in effect with respect to a plan that is amended to increase the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable, such waiver shall not apply to any plan year ending on or after the date on which such amendment is adopted. Section 412(f)(2)(A) of the Code and § 304(b)(2)(A) of ERISA provide that section 412(f)(1) of the Code and section 304(b)(1) of ERISA shall not apply to any plan amendment which the Secretary of Labor determines to be reasonable and which provides only de minimis increases in the liabilities of the plan.

Reorganization Plan No. 4, which became effective December 31, 1978, transferred the authority indicated in section 412(f)(2) from the Secretary of Labor to the Secretary of Treasury.

No funding waiver is currently in effect for the Pilot Plan. The Pilot Plan covers only employees which are not participants of the Contract and Salaried Plans, for which funding waivers are in effect. Therefore, section 412(f)(1) of the Code and section 302(b) of ERISA do not apply to the Pilot Plan.

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.

We have sent a copy of this letter to the Manager, EP Classification in _____ to the Manager, EP Compliance Unit in _____ and to your authorized representative pursuant to a power of attorney on file in this office.

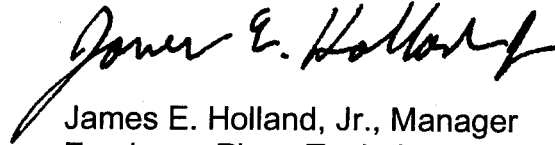
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If you require further assistance in this matter, please contact

) at

Sincerely yours,

A handwritten signature in black ink, appearing to read "James E. Holland, Jr.", with a stylized flourish at the end.

James E. Holland, Jr., Manager
Employee Plans Technical