Internal Revenue Service

Significant Index No. 0412.06-00

Department of the Treasury

200149041

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:
T:EP:RA:T:A1

Date:
JUL 31 2001

In re:

EIN:

This letter constitutes notice that with respect to the above-named defined benefit pension plan we have granted a conditional waiver of the minimum funding standard for the plan year ending February 28, 2001.

This conditional waiver for the plan year ended February 28, 2001, has been granted in accordance with § 412(d) of the Internal Revenue Code and § 303 of the Employee Retirement Income Security Act of 1974 (ERISA). The waived amount is the contribution which would otherwise be required to reduce the balance in the funding standard account to zero as of the end of the plan year for which this conditional waiver has been granted.

The sponsor has an October 1-September 30 fiscal year. For its fiscal year ended September 30, 2000, the employer had a net operating loss and negative cash flow. Compared to the prior fiscal year, the employer's net worth decreased by 28.5% and working capital decreased by 65.5%. For the six-month period ended March 31, 2001, revenues increased at a higher rate than expenses did. This led to a smaller pro-rata loss than in the prior fiscal year.

To effect a turnaround, the employer has reduced staff, reduced contracted services and lowered its rental costs. The employer anticipates that the full impact of these measures will be realized in the second half of the current fiscal year. Accordingly, the employer expects to break even this year and to have a net operating gain for the fiscal year ending September 30, 2002.

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As of March 1, 2000, the plan assets were equal to 84% of the plan's current liability. Because of the recovery prospects of the employer are uncertain and the plan is underfunded, the waiver is granted subject to the following condition:

> The contributions required to satisfy the minimum funding standard for the plan years ended February 28, 2002 and 2003, are to be timely made as defined in Code § 412(c)(10), without an additional funding waiver for those years.

If this condition is not satisfied, the waiver is retroactively null and void. You agreed to this condition in your letter dated July 31, 2001.

Your attention is called to Code § 412(f) and ERISA § 304(b) which describe the consequences that would result in the event the plan is amended to increase benefits, change the rate in the accrual of benefits or to change the rate of vesting, while any portion of the waived funding deficiency remains unamortized. Please note that any amendment to other retirement plans maintained by the employer to increase the liabilities of those plans would be considered an amendment for purposes of Code § 412(f) and ERISA § 304(b).

This ruling is directed only to the taxpayer that requested it. Code § 6110(k)(3) provides that it may not be used or cited by others as precedent.

When filing Form 5500 for the plan year ended February 28, 2001, the date of this letter should be entered on Schedule B (Actuarial Information). A copy of this letter should also be sent to the enrolled actuary for the plan. We have sent a copy of this letter to the Employee Plans Classification Manager in

Sincerely,

James E. Holland, Jr.

James E. Holland, Jr., Manager
Employee Plans Actuarial Group 1
Tax Exempt and Government Entities
Division

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