

ID: CCA_2009042108352450
Office:
UILC: 4980.00-00 and 4975.00-00

Number: **200922029**
Release Date: 5/29/2009

From:
Sent: Tuesday, April 21, 2009 8:35:30 AM
To:
Cc:
Subject: RE: Cases

After meeting with , from , and , it was decided that we should not treat these transactions as prohibited transactions under section 4975 of the Code (This is also after consultation with Department of Labor.) or pursue section 4980 excise tax against the owner/sellers of the plan sponsors. The controlled group rules don't apply to section 4980, . Also, section 4980(b) says that the section 4980 excise tax shall be paid by the employer maintaining the plan.

In the case, in the Form 886A on page 2 it says that the Form 5500 Schedule I for Plan Year ended December 31, show benefits paid of \$, which total distributions made to in Exhibits 5 and 6. This distribution amount appears to be a violation of the section 415(b) limitations. If that is the case the section 415(b) limitation violation would disqualify the Plan. Also, there is no reference in the Form 886A how or whether the \$ was reported as taxable income to Taxpayer.

Sorry for the delay in getting back to you.