



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201131034

MAY 13 2011

Significant Index Number: 412.06-00

SE:TEP:RA: A2

In Re: *****

Company = *****

Location = *****

EIN: *****

Dear *****:

This letter is to inform you that your request for a waiver of the minimum funding standard for the above-named plan for the plan year ending December 31, 20 , has been denied.

The Company is the parent company of a controlled group of 25 entities that has or had a variety of different businesses including real estate development, ferry transportation, and restaurants. It originally was a common carrier of less-than-truckload general freight before its operations closed down in 2002 after many years of operating losses. Currently, the Company is in the process of liquidating its assets and paying creditors. It has no remaining employees.

The Company's business hardship reflects the hardships of two subsidiaries in the controlled group with the ability to make contributions to the Plan. The Company's overall inability to contribute to the Plan stems primarily from the downturn in the real estate market in Location. Specifically, it has prevented one subsidiary from enforcing a valuable contract for the sale of parcels of land to a third party. In addition, the market downturn has delayed the sale of another subsidiary's three parcels of land in Location. If the real estate markets recover, the subsidiaries could potentially sell their properties and have sufficient funds to contribute to the Plan. However, the Company has not provided the Service with sufficient proof that the real estate market will recover in 2011-2013 in order for these subsidiaries to contribute to the Plan. Also, the Company provided no plan for contributions in the meantime.

You were notified in a letter dated February 24, 2011, that your request had been tentatively denied. You waived your right to a Conference of Right in writing dated March 14, 2011.

After considering all financial information supplied by the Company, we have determined that the Company's business hardship, while substantial, is not temporary. Furthermore, even if the funding waiver were granted, the Company's financial submission illustrates that it would not be able to make periodic payments to the Plan sufficient to cover both the amortization payments on the funding waiver plus the future ongoing cost of the Plan. Therefore, because the Company's financial hardship does not appear to be temporary, and the Company is unable to satisfy future minimum funding requirements, your request for a waiver of the minimum funding standard for the plan year ending December 31, 2011, has been denied.

You should note that excise taxes under section 4971(a) of the Internal Revenue Code ("Code") are currently due on the minimum funding requirement for the Plan year ending December 31, 2011. You should file a Form 5330 as soon as possible to report and pay the taxes.

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 Baltimore, Maryland, to the Manager, EP Compliance Unit in Chicago, Illinois. If you require further assistance in this matter, please contact ***** (ID# ***-*****) at

Sincerely yours,


Andrew E. Zuckerman
Director, EP Rulings & Agreements

cc:

Control Number 911675828