



Significant Index No. 0404.00-00

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

201206024

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

MAR 16 2011

T:EP:RA

Re:

Dear:

This letter is in response to your request with respect to the above-referenced defined benefit pension plan pursuant to Revenue Procedure 90-49 for the plan years commencing January 1, , and .

Rev. Proc. 90-49 sets forth the procedure whereby, under certain circumstances, a disallowance of the deduction of employer contributions to a qualified defined benefit plan may be obtained; thereby fulfilling a condition under which such contributions could revert to the employer.

Based on the information submitted, we have determined that contributions totaling \$ which were made for the plan years commencing January 1, , and , may be considered as disallowed solely for the purpose of applying Rev. Rul. 91-4. Therefore the return of contributions not exceeding \$ would not adversely affect the qualified status of the plan, providing this reversion occurs no later than one year from the date of this letter. However, please note the special provisions that apply under section 404(a)(8)(C) of the Internal Revenue Code (Code) for a qualified pension plan maintained by a self-employed individual. Furthermore, as we discussed with your authorized representative during a telephone conference on March 7, 2011, the return of the nondeductible contributions may result in accumulated funding deficiencies under section 412 of the Code for each of the plan years in question. Consequently, if the contributions are returned, you may be required to file a revised Form 5500 Schedule B for one or more tax years, along with a Form 5330, and pay the excise tax under section 4971(a) of the Code associated with the accumulated funding deficiencies that may arise in the Plan. If the contributions remain in the Plan, while they may be considered nondeductible under section 404 of the Code, they would not be considered nondeductible contributions under section 4972 of the Code since section 4972(c)(4) provides a special rule for determining the nondeductibility of contributions to a defined benefit plan for self-employed individuals for purposes of determining the excise tax under section 4972.

In granting this approval, we are not expressing any opinions as to the accuracy or acceptability of any calculations or other material submitted with your request. Furthermore, 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.

When filing Forms 5500 for the plan years commencing January 1, and , a copy of this letter must be attached to the Schedule B if the contributions are returned. A copy of this letter should be furnished to the enrolled actuary for the plan. We have sent copies to your authorized representatives pursuant to a power of attorney on file in this office.

If you require further assistance concerning this matter, please contact

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. M. Ziegler". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

David M. Ziegler, Manager
Employee Plans Actuarial Group 2