



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201511040

DEC 19 2014

T:EP:RA:TZ

Uniform Issue List: 412.00-00

Legend:

Company =

Plan =

Dear ,

This letter is in response to your request, dated September 30, 2014, submitted on your behalf by your authorized representative, in which the Company requests a private letter ruling that the adoption of a Plan amendment which will provide a temporary lump-sum distribution option during a specified window period to a certain category of Plan participants will not be treated as an increase in the Plan's liabilities by reason of an increase in Plan benefits for purposes of section 412(f)(1) of the Internal Revenue Code (the "Code") and section 304(b)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA"), each as in effect prior to amendments made by the Pension Protection Act of 2006 (the "PPA").

The lump-sum option will only be available to terminated vested participants and participants still employed who will have the opportunity, after termination of employment, to elect to receive their vested benefit as a lump-sum distribution. Participants who have already begun receiving benefits will not be offered the lump-sum option. All participants offered a lump-sum option will also have the opportunity to elect to receive an immediate annuity in the applicable normal form (i.e. qualified joint and survivor annuity or single life annuity) instead of the lump-sum. The proposed amendment does not result in an increase in benefits since the lump-sum payments must be the actuarial equivalent to the annuity options available under the Plan as required by section 415(b)(2)(B) of the Code.

In lieu of the immediate distribution, participants may defer commencement of their vested accrued benefit to their normal retirement date or any earlier retirement date as currently available in the Plan. The lump-sum option will not be available at the deferred commencement date.

An extension of the amortization period for the unfunded liabilities of the Plan was previously granted pursuant to section 412(e) of the Code and section 304(a) of ERISA. Section 101 of Reorganization Plan No. 4 of 1978, 1979-1 C.B. 480, transferred the authority for issuing rulings under section 304(a) of ERISA from the Secretary of Labor to the Secretary of the Treasury. One condition of the extension of the amortization period is that the Company may not amend the Plan to increase benefits and/or Plan liabilities except in accordance with section 412(f) of the Code. Accordingly, the Company seeks a ruling that its Plan amendment will not violate the condition of its extension of the amortization period for the unfunded liabilities.

Under the provisions of section 412(f)(1) of the Code, as in effect prior to PPA, there are restrictions on amendments resulting in an increase in the Plan's liabilities by reason of an increase in Plan benefits while an extension of time under section 412(e) is in effect.

APPLICABLE LAW

Section 412(f), as in effect prior to PPA, provides:

Requirements relating to waivers and extensions.

(1) No amendment of the plan which increases 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 non-forfeitable under the plan shall be adopted if a waiver under subsection (d)(1) or an extension of time under subsection (e) is in effect with respect to the plan, or if a plan amendment described in subsection (c)(8) has been made at any time in the preceding 12 months (24 months for multiemployer plans). If a plan is amended in violation of the preceding sentence, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

(B) Exception. Paragraph (1) shall not apply to any plan amendment which—

- (A) the Secretary of Labor determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,
- (B) only repeals an amendment described in subsection (c)(8), or
- (C) is required as a condition of qualification under this part.

ANALYSIS

The Plan amendment affects only former Plan participants with vested benefits who are not yet receiving benefits and participants still employed who will have the opportunity, after termination of employment, to elect to receive their vested benefit as a lump-sum distribution. The amendment does not increase their benefits, change benefit accruals, or change the rate at which benefits become nonforfeitable under the Plan. The amendment only affects the manner in which benefits are paid to participants with deferred vested benefits. The lump-sum form of benefit payout is the actuarial equivalent to the participant's accrued benefit under the Plan and consequently not an increase in the liabilities of the Plan,

RULING

Therefore, the adoption of the proposed Plan amendment will not violate the provisions of section 412(f)(1) of the Code as the Plan amendment does not increase benefits, change benefit accruals, or the rate at which benefits become nonforfeitable.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling please contact ***** . Please address all correspondence to SE:T:EP:RA:T2.

Sincerely,



Jason S. Levine, Manager
Employee Plans Technical Group 2

Enclosures:
Deleted copy of letter ruling
Notice of Intention to Disclose

cc: