

Internal Revenue Service

Number: **201533013**

Release Date: 8/14/2015

Index Number: 412.06-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:TEGE:EB:QP1

PLR-T-103288-15

Date:

May 12, 2015

In re:

Company =

Plan =

Dear :

This letter constitutes notice that the waiver of the required minimum funding contribution for the Plan for the plan year ending December 31, 2014 ("Plan Year") is approved subject to the conditions listed below. This waiver is for the required minimum contributions for the Plan Year; all waiver amortization payments representing this waiver still must be paid as stated in section 412(c)(1)(C) of the Code. This waiver is conditioned on the Company's satisfaction of all of the following conditions; the failure to satisfy any of the following conditions renders the waiver for both of the Plans null and void.

1. Collateral acceptable to Pension Benefit Guaranty Corporation (PBGC) is provided to the Plan for the full amount of the funding waiver for the 2014 plan year by the later of (a) 120 days from the date of the IRS ruling letter granting the waiver ("Final Ruling Letter") and (b) the date PBGC notifies the Service in writing that acceptable collateral has not been provided to the Plan, but no later than 360 days from the date of the Final Ruling Letter;
2. Starting with the quarterly contribution due on July 15, 2015, the Company makes contributions equal to the required quarterly contributions to the Plan in a timely fashion while the Plan is subject to a waiver of the minimum funding standard. For this purpose, the total amount of each quarterly contribution will be determined in accordance with section 430(j)(3)(D) and section 430(j)(3)(E) of

the Code, and can be comprised of several installments made prior to the respective due date of the quarterly contribution;

3. Under section 412(c)(7) of the Code, the Company is restricted from amending the Plan to increase benefits and/or Plan liabilities while a waiver under section 412(c) is in effect with respect to the Plan, except to any extent otherwise permitted under Code Section 412(c)(7)(B), in which case the Company must copy PBGC on any correspondence with the IRS regarding notification of or application for such an exception;
4. The Company makes timely contributions to the Plan in an amount sufficient to meet the minimum funding requirements for the Plan for the plan years ending December 31, 2015, through 2019, by September 15, 2016 through 2020, respectively;
5. The Company executes all appropriate documentation granting PBGC a consensual lien against all of its real and personal property as collateral for the full amount of the funding waiver for the 2013 plan year by May 30, 2015.
6. No contributions made to the Plan for the 2014 plan year are added to the prefunding balance of the Plan.
7. The Company provides proof of payment of all contributions described above within five (5) business days after each payment thereof, to the Service and PBGC using the fax numbers or addresses below.

IRS - EP Classification
Mr. Chris Huxtable
400 North 8th Street, Room 480
Richmond, VA 23219
Fax: 804-916-8222

Pension Benefit Guaranty Corporation
Corporate Finance & Restructuring
1200 K Street, N.W.
Washington, DC 20005
Fax: 202-842-2643

This waiver is granted in accordance with section 412(c) of the Code and section 303 of the Employee Retirement Income Security Act of 1974 ("ERISA").

Section 412(c)(1) of the Code provides generally that if an employer is unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship and application of the standard would be adverse to the interests of plan

participants in the aggregate, the minimum funding standard requirements may be waived for the year with respect to all or any portion of the minimum funding standard.

Section 412(c)(2) of the Code provides that the factors taken into account in determining a temporary substantial business hardship include whether or not the employer is operating at an economic loss, there is substantial unemployment or underemployment in the trade or business and in the industry concerned, the sales and profits of the industry concerned are depressed or declining, and it is reasonable to expect that the plan will be continued only if the waiver is granted.

The Company is a privately owned manufacturer and distributor of lead acid batteries and standby power systems. The Company has recently suffered a temporary substantial business hardship due to increased capital spending, weaker than expected revenues, and difficulties with liquidity. The Company has also experienced difficulties with the seasonality of its business.

The Company has implemented a series of actions to stabilize it in the near term and strengthen it in the long term. This includes hiring new leadership, increasing prices, reducing expenses, and refinancing a credit facility. The Company believes, and its financial projections illustrate, that its cash flow will improve adequately to satisfy the Plan's funding obligation in the near future.

Based on the facts as represented by the Company, the legal standard for a temporary substantial business hardship under section 412(c) of the Code has been met.

Section 412(c)(7) of the Code and section 302(c)(7) of ERISA describe the consequences that result in the event either of the Plans is amended to increase benefits, change the rate in the accrual of benefits or change the rate of vesting, while any portion of the waived funding deficiency remains unamortized. Any amendment to a profit sharing plan or any other retirement plan (covering employees covered by the Plans) maintained by the Company, to increase, or any action by the Company or its authorized agents or designees (such as a Board of Directors or Board of Trustees) that has the effect of increasing the liabilities of those plans is considered an amendment for purposes of section 412(c) of the Code and section 302(c)(7) of ERISA. Similarly, the establishment of a new profit sharing plan or any other retirement plan by the Company (covering employees covered by the Plans) is considered an amendment for purposes of section 412(c)(7) of the Code and section 302(c)(7) of ERISA.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

William Hulteng
Acting Branch Chief, Qualified Plans Branch 1
(Tax Exempt & Government Entities)