

Number: **201750010**  
Release Date: 12/15/2017  
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Third Party Communication: None  
Date of Communication: Not Applicable

Telephone Number:

Date: September 14, 2017

In re:

Taxpayer =  
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, 2016 (“Plan Year”) is approved subject to the conditions listed below. This waiver is for the remaining unpaid minimum required contribution for the Plan Year; all waiver amortization payments representing this waiver must be paid as stated in section 412(c)(1)(C) of the Internal Revenue Code (the “Code”). This waiver is conditioned on the Taxpayer’s satisfaction of all of the following conditions; the failure to satisfy any of the following conditions renders this waiver for the Plan retroactively null and void.

1. Starting with the quarterly contribution due on October 15, 2017, Taxpayer makes contributions equal to the required quarterly contributions to the Plan in a timely manner 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;
2. Under section 412(c)(7) of the Code, Taxpayer 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 section 412(c)(7)(B), in which case Taxpayer must copy PBGC

on any correspondence with the IRS regarding notification of or application for such an exception;

3. Taxpayer 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, 2017 through December 31, 2021, by September 15, 2018 through September 15, 2022, respectively; and
4. In a timely manner, Taxpayer provides proof of payment of all contributions described above to the IRS using the fax number or address below:

IRS - EP Classification:

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.

Taxpayer, a medical practice, has recently suffered a temporary substantial business hardship due to the retirement of two senior physicians, its inability to collect on many of its receivables, and increasing overhead costs. Taxpayer has implemented actions to facilitate its long term financial improvement. This includes hiring new physicians, retaining a collection agency, and reducing operating expenses. Taxpayer has submitted documentation demonstrating that these actions will help its cash flow improve adequately to satisfy the Plan's funding obligation in the near future. Based on the facts as represented by Taxpayer, the legal standard for a "temporary substantial business hardship" pursuant to 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 the Plan 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 Plan) maintained by Taxpayer, to increase, or any action by Taxpayer 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 the plan 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 Taxpayer (covering employees covered by the Plan) is considered an amendment for purposes of section 412(c)(7) of the Code and section 302(c)(7) of ERISA.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2017-1, § 7.01(15)(b). This office has not verified any of the material submitted in support of the request for ruling, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2017-1, § 11.05.

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.

Sincerely,

Jason Levine  
Senior Technician Reviewer  
Qualified Plans Branch 4  
Office of the Associate Chief Counsel  
(Tax Exempt & Government Entities)