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Internal Revenue Service

Significant Index No. 4971.00-00

Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:
OP:E:EP:A:1

Date:

FEB 26 1999

In re: Plan =

Company =

This letter constitutes notice that waivers of the 10 percent tax under section 4971(f)(1) of the Internal Revenue Code have been granted for the above-named defined benefit plan for each of the first three quarters of the plan year beginning July 1, 1995.

The waivers of the 10 percent tax have been granted in accordance with section 4971(f)(4) of the Internal Revenue Code, which was added to the Code by the Small Business Job Protection Act of 1996, Pub. L. 104-188. For any quarter for which these waivers have been granted, the amount of the waiver is equal to 10 percent of the amount of the excess of (1) the liquidity shortfall of the Plan (as determined under section 412(m)(5)(E) of the Code) for the quarter, over (2) the aggregate amount of any contributions paid in the form of liquid assets which served to reduce the liquidity shortfall for the quarter, and which were paid to the Plan between the last day of the quarter and the due date of the required installment under section 412(m) for such quarter

The liquidity shortfalls arose as a result of the inability of the Company to satisfy the liquidity requirement of section 412(m)(5) of the Code during the first three quarters of the plan year commencing July 1, 1995. During 1995 and 1996 the Company experienced net losses and severe negative cash flow. The Company's capital and surplus declined by almost 50 percent by the end of 1996. The Board of Directors removed the president of the Company in June 1995 and the state authorities intervened in the Company's affairs in August 1995.

The Company contributed sufficient payments to the Plan to satisfy the minimum funding requirements of section 412 of the Code (other than the liquidity requirement of section 412(m)). The liquidity shortfalls of the Plan were the result, in part, of the payment of a large number of small single-sum distributions that occurred because of the terminations of employees in face of the deteriorating financial condition. To correct the liquidity shortfall, contributions were made to the plan in 1996 when there was a slight improvement in cash flow. The plan was terminated in a standard termination in 1997.

A full correction of the liquidity shortfalls within the prescribed periods would have imposed a substantial financial hardship on the Company. Accordingly, we conclude that the liquidity shortfalls were due to reasonable cause and not willful neglect, and that the Company has took reasonable steps to remedy the liquidity shortfalls that existed in the plan year beginning July 1, 1995.

Because the liquidity requirement of section 412(m)(5) of the Code was satisfied for the quarter ended June 30, 1996, the 100 percent excise tax of section 4971(f)(2) does not apply with respect to the liquidity shortfall that existed for the first three quarters of the plan year.

We have sent a copy of this letter to the Key District Office in

Sincerely yours,

Carol D. Gold
Director, Employee Plans Division