

200620024



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

FEB 22 2006

SE:T:EP:RA:T:A2

In re:

Fund = :

Industry = :

This letter constitutes notice that your request for a 10-year extension for amortizing the unfunded liabilities described in section 412(b)(2)(B) of the Internal Revenue Code ("Code") and section 302(b)(2)(B) of the Employee Retirement Income Security Act of 1974 ("ERISA"), has been approved subject to the following conditions:

- (1) A credit balance is maintained such that the credit balance is at least as large as the accumulation (at the plan's valuation rate) of the amortized (at the Plan's valuation rate over a period of 15 years) differences between the amortization payments of the extended bases (amortized at the section 6621(b) rate) and the amortization payments of such bases had such bases been extended and amortized at the Plan's valuation rate;
- (2) The Plan's funded ratio, calculated by dividing the market value of Plan assets as of the Plan's valuation date by the Plan's actuarial accrued liability (computed using the unit credit method and the Plan assumptions as of January 1, 2004), is:
  - (a) no less than 59% for each valuation date from January 1, 2005, through January 1, 2011, inclusive;
  - (b) no less than 60% as of January 1, 2012 and as of January 1, 2013;
  - (c) no less than 61% as of January 1, 2014, and as of January 1, 2015;
  - (d) no less than 62% as of January 1, 2016;

- (e) for each valuation date subsequent to January 1, 2016, no less than 1% greater than the floor funded ratio as of the previous valuation date. (For example, because the floor funded ratio as of January 1, 2016, is 62%, the funded ratio must be at least 63% as of January 1, 2017, and 64% as of January 1, 2018.); and
- (3) For each plan year that the extension remains in effect, starting with the plan year beginning January 1, 2004, a copy of the actuarial valuation report for each plan year will be provided to this office by September 15 of the following calendar year at the address below:

Your authorized representative agreed to these conditions in a letter dated July 13, 2005. If any one of these conditions is not satisfied, the approval to extend the amortization periods for amortizing the unfunded liabilities would be retroactively null and void. However, the Service will consider modifications of these conditions especially in the event that unforeseen circumstances beyond the control of the Fund cause the actual experience of the Plan to fail the funded ratio condition. An example of such an unforeseen circumstance would include a market fluctuation affecting the value of the Plan's assets. Of course, any request for a modification is considered another ruling request and would be subject to an additional user fee.

The extensions of the amortization periods of the unfunded liabilities of the Plan have been granted in accordance with section 412(e) of the Code and section 304(a) of ERISA. Section 412(e) of the Code and section 304(a) of ERISA authorize the Secretary to extend the period of time required to amortize any unfunded liability (described in section 412(b)(2)(B) of the Code and section 302(b)(2)(B) of ERISA) of a plan for a period of time (not in excess of 10 years) if the Secretary determines that such extension would carry out the purposes of ERISA and would provide adequate protection for participants under the plan and their beneficiaries and if the Secretary determines that the failure to permit such extension would (1) result in (A) a substantial risk to the voluntary continuation of the plan, or (B) a substantial curtailment of pension benefit levels or employee compensation, and (2) be adverse to the interests of plan participants in the aggregate.

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. Accordingly, the amortization periods for the unfunded

liabilities of the Plan are extended as described above under section 412(e) of the Code and section 304(a) of ERISA.

The Plan is a multiemployer defined benefit plan. The interest rate applicable for the remaining amortization periods of the amortization bases for which extensions would be granted is the rate determined under section 6621(b) of the Code.

As of January 1, 2003, the value of the assets of the Plan was approximately equal to 51.2% of the present value of accrued benefits under the Plan. The Plan's funded status has substantially deteriorated in recent years, primarily as a result of severe investment losses over the period 2000 through 2002. The actuarial losses amounted to approximately \$            on a market value basis. In addition, in September 2002, one of the Plan's major contributing employers, commenced liquidation under Chapter 11 of the U.S. Bankruptcy Code. This resulted in a loss of            active participants in the Plan. In view of these severe losses, employer contribution levels, fixed by collective bargaining agreements, are expected to be inadequate to meet the Plan's anticipated minimum funding requirements.

The Plan has enjoyed markedly improved returns on investments from 2003 to date, which has resulted in asset increases. However, investment returns are not projected to be able to overcome the investment losses from 2000 through 2002 and the bankruptcy of a major contributing employer.

To deal with the funding problems, the following steps have been taken:

- (1) Fund trustees adopted a plan amendment as of January 1,            substantially reducing the rate of future benefit accruals, while protecting past benefit accruals at the levels earned prior to January 1,           . Under this amendment, there will be no further accruals under

The annual savings from these benefit cuts will increase over time and further strengthen the Plan's funded position in the long term.

- (2) Midterm agreements were reached between the union representing certain participants and certain contributing employers to the Fund

According to information submitted with the request, if the extension is not granted, the potential increases in employer contributions necessary to avoid funding deficiencies, and the excise taxes that would result if funding deficiencies are not avoided, would severely harm the majority of the contributing employers to the Plan. The authorized representative of the Fund represents that in many cases, the additional expenses would wipe out the net income of the employers and potentially force them into bankruptcy. The additional expense and cash outflows would likely cause many employers to violate debt covenants or hamper their access to credit markets, further straining their financial condition.

The authorized representatives of the Fund have represented that if the extension is not granted, the situation could force the bankruptcy of nearly all of the Industry in the U.S. If the employers within the Industry fail, a large segment of the Fund's active participants would become unemployed, and the effects would negatively impact the economy as a whole.

Furthermore, if the extension is not granted, it is likely that new employers would be discouraged from participating and current contributing employers would be encouraged to withdraw from the Plan. This would result in a substantial risk to the voluntary continuation of the Plan. Also, it would be adverse to the interest of Plan participants because the curtailment of pension accruals and other drastic measures would need to be implemented to correct the situation.

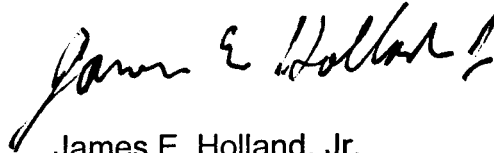
Accordingly, extensions would not be adverse to the participants in the aggregate. Moreover, the Fund's authorized representative has submitted a scenario which incorporates 10 year amortization extensions and 15 years to amortize the decreases that occur each year in the minimum contribution requirements resulting solely from differences between the valuation rate and the 6621(b) rate. This scenario meets the conditions provided above. However, because the prospects for recovery are uncertain and because the Plan is under-funded, we are granting these extensions subject to the conditions provided above.

Your attention is called to section 412(f) of the Code and section 304(b) of ERISA which describe the consequences that would result in the event the plan is amended to increase benefits, change the rate in the accrual of benefits or to change the rate of vesting, while any portion of the waived funding deficiency remains unamortized. Please note that any amendment to a profit sharing plan or any other retirement plans (covering employees covered by this plan) maintained by the trustees of this Plan, to increase the liabilities of those plans would be considered an amendment for purposes of section 412(f) of the Code and section 304(b) of ERISA. Similarly, the establishment of a new profit sharing plan or any other retirement plan by the trustees of this Plan (covering employees covered by this plan) would be considered an amendment for purposes of section 412(f) of the Code and section 304(b) of ERISA.

We have sent a copy of this letter to the Manager, EP Classification in \_\_\_\_\_, to the Manager, EP Compliance Unit in \_\_\_\_\_ and to your authorized representative pursuant to a power of attorney on file in this office.

If you require further assistance in this matter, please contact :

Sincerely yours,



James E. Holland, Jr.  
Manager, Employee Plans Technical