TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

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Attention: **********

Legend:

Agency B	= *****
Board M	= *****
State A	= *****
Plan X	= *****
Statute D	= *****
Section L	= *****
Section N	= *****

Dear **********:

This is in response to a letter dated December 15, 2004, as supplemented by letters dated September 1, 2005, and September 27, 2005, in which your

authorized representative requested rulings concerning the application of the limitations of sections 415(b) and 415(c) of the Internal Revenue Code (the "Code") to permissive service credits purchased under Plan X.

The following facts and representations have been submitted on your behalf:

Plan X, a defined benefit plan, is one of the plans created by the State A legislature. You represent that Agency B and Board M are responsible for the administration of a number of plans, including Plan X, all of which are sponsored by State A and all of which, including Plan X, are governmental plans within the meaning of section 414(d) of the Code. Plan X was established in and has received a favorable determination letter from the Internal Revenue Service. Plan X includes members, some of whom teach at State A's colleges and universities. Several of those members are highly paid participants whose salaries have not been subjected to limits under section 401(a)(17) because they are "grandfathered" from that section's compensation limit. The combination of high, grandfathered salaries plus long service means several of those members have benefits affected by the section 415 limits on annual benefit amounts.

Plan X, as required by Section L of the State A Code, permits a Plan X member to "purchase" service credit that is then counted for purposes of calculating his or her benefit under Section N. The service purchased is for periods of employment when membership was mandatory but for which member contributions were not made. The service credit purchased is service not otherwise counted for purposes of calculating a benefit and is service credit which the member will receive only if he or she makes this purchase by making a voluntary, additional contribution to Plan X. Section L has been a feature of Plan X for many years and was in effect on August 5, 1997. Several members of Plan X whose benefits are affected by Code section 415 limits have made a purchase of service credit under Section L. Section N provides, in general, that eligibility service for a member in Plan X consists of service credit purchased under this subtitle of Statute D.

To buy service credit as described in Section L, a member pays in a single payment the contributions that the member would have paid for the period of employment for which service credit is being purchased, plus regular interest to the date of payment. The payment made by the member represents less than the amount otherwise needed to fund the additional annual allowance generated by the additional years of service credit purchased, which distinguishes this from a "full cost" service credit service purchase. You state that when a member pays "full cost" for the permissive service credit, the accrued benefit derived from the employee contributions is equal to the value of the permissive service credit. You further represent that Section L allows the employees to pay less than the full cost as section 415(n)(3)(A)(iii) of the Code provides that the additional contribution made by the member cannot exceed the amount necessary to fund

the benefit attributable to the service credit being purchased. Therefore, when a member pays less than the full cost as provided for under Section L, the actual accrued benefit derived from these employee contributions alone is some smaller part of the full value of the accrued benefit attributable to the permissive service credit. You represent that the service credit purchased under Section L is "permissive service credit" as defined in section 415(n). You also represent that Plan X does not authorize a "pick up" feature under section 414(h)(2) for the additional contributions to purchase service credit and therefore the purchase payment was and is on an after-tax basis.

It is represented that Plan X is a governmental plan and, as such, is not subject to many of the requirements of the Code applicable to qualified plans. However, Plan X is subject to the requirements of section 415. Section 415(b) limits the annual benefit that can be paid from a defined benefit pension plan, such as Plan X.

Section 415(n) of the Code applies special rules to a governmental defined benefit pension plan that allows an employee to make one or more contributions to the plan to purchase "permissive service credit" under the plan. In general, under section 415(n), the requirements of section 415 are treated as met in a case where there has been a permissive service credit purchase, either by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of the section 415(b) limits, or by treating all such contributions as annual additions for purposes of the limit on annual additions imposed by section 415(c), and then determining if the requirements of section 415(c) are met.

Section 415(n) was added to the Code by the 1997 Taxpayer Relief Act, Pub. L. 105-34, enacted August 5, 1997 (TRA '97), by section 1526 of TRA '97. Section 1526 contains a special transition rule applicable to certain eligible members participating in a governmental plan prior to a date specified (hereafter the "grandfathered group"). TRA '97 sections 1526(c)(1) and (c)(2)(A) provide:

> "Effective Dates--(1) in General: the amendments made by this section shall apply to permissive service credit contributions made in years beginning after December 31, 1997. (2) Transitional Rule: (A) In General: In the case of an eligible Participant in a governmental plan (within the meaning of section 414(d) of the Code), the limitations of section 415(c)(1) of the Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the plan as in effect on the date of the enactment of this Act".

Section 1526(c)(2)(B) of TRA '97 describes the group of eligible participants who will be in the grandfathered group, which, in general, is the group of plan

participants existing at the time of the date of enactment of TRA '97 (August 5, 1997), or a specified (but limited) time afterward.

Plan X has several members who you represent are members of the grandfathered group as described in section 1526(c)(2) whose benefits, when calculated under the usual Plan X formula and using both purchased service as well as ordinary service credit, exceed the Code section 415(b) limits on annual benefit payments. These members purchased service credit under Section L, or its predecessor provisions, well before the enactment of TRA '97. You also represent that this service credit purchase does not relate to a prior "cash out" as described in Code section 415(k)(3).

You represent that, as Plan X is a governmental plan, section 401(a)(17) of the Code does not apply to limit compensation that may be considered for calculating the benefit of the grandfathered group, who began employment before section 401(a)(17) was applied to governmental plans.

You represent that section 415(n)(1) of the Code allows Plan X to test the contributions made to purchase prior service credit against the section 415(c) annual addition limits rather than treating the accrued benefit derived from all of such contributions as an annual benefit for purposes of section 415(b).

You represent that the transition rule of section 1526(c) of TRA '97 allows members of the grandfathered group to have full use of his or her purchased service against the Code section 415(c) limit, as this defined contribution limit is not used to reduce the amount of permissive service credit allowed under the terms of Plan X as in effect on the date of enactment of TRA '97, or earlier, as in the case of Plan X.

You represent that the voluntary contributions that were made to Plan X prior to 1997 were tested under Code section 415(c) and all such contributions are within that limit.

You request rulings concerning the applicability of the Code section 415 limitations to the permissive service credit purchase contributions made to Plan X prior to the effective date of section 415(n).

Based on the foregoing facts and representations, the following rulings are requested:

1. That the after-tax employee contributions made to Plan X prior to December 31, 1997 by a Participant who is a member of the grandfathered group described in section 1526(c)(2) of TRA '97 to purchase service credit under Section L (which contributions were not repayment of a "cash out" as described

in Code section 415(k)(3)) are treated under the transitional rule of section 1526(c)(2) as "permissive service credit" contributions within the meaning of Code section 415(n)(1) even though these employee contributions by the grandfathered group were made to the Plan X before the general effective date of the Act (since section 1526(c)(2) applies section 415(n) retroactively for this grandfathered group).

2. That, assuming the answer to ruling request number one is affirmative, and assuming, therefore, that section 415(n) applies retroactively, section 1526(c)(2) allows the use of all permissive service purchases made prior to the date of enactment of the TRA '97 by a member of the grandfathered group when applying the Code section 415(n)(1)(B) test, without violation of the usual Code section 415(c) limits on annual additions, even though the limitations of Code section 415(c) might otherwise have limited the amount of such a purchase if the employee contribution for this permissive service credit had otherwise been treated as an annual addition under Code section 415(c) when made.

3. That assuming the answers to ruling requests number one and two are both in the affirmative, if the Code section 415(n)(1)(B) test is used to determine Code section 415 compliance of the permissive service credit purchase, the Code section 415(n)(1)(A) is not used to test Code section 415 compliance as to that part of the member's accrued benefit derived from the permissive service credit purchase, since Code section 415(n)(1)(A) is an alternative test.

4. That, assuming the answers to the above ruling request are in the affirmative, for purposes of subtracting the part of a member's accrued benefit not subject to the Code section 415(n)(1)(A) test (since that participant is being subjected to the alternative Code section 415(n)(1)(B) test)), when calculating "the accrued benefit derived from all such contributions as an annual benefit for purposes of subsection (b)", Agency B should calculate the full value of the portion of the accrued benefit attributable to permissive service credit purchased by a member of the grandfather group, and Agency B should do so because the statutory reference to "all such contributions" is a reference to both employer and employee contributions made to fund the accrued benefit purchased when the purchase is made under Section L of Plan X at the member's cost (i.e., at less than the full, actuarial cost for the additional benefit).

5. The assuming that the answers to the above rulings are all in the affirmative, and assuming that the Code section 415(n)(1)(A) test is not used to test Code section 415 compliance as to the permissive service credit purchase, because the Code section 415(n)(1)(B) alternative test has been used, then the annual benefit derived from both employee and employer contributions and the equivalent to the portion of the accrued benefit attributable to the permissive service credit purchased by the member of the grandfathered group is ignored in calculating the annual benefit otherwise to be tested for Code section 415 purposes, and only the remaining annual benefit (i.e., the annual benefit calculated without regard to the value of the permissive service credit purchase) is used for purposes of Code section 415(b) testing.

Section 415(b) of the Code provides the limitation on annual benefits for defined benefit plans. Section 415(b)(2) provides, in general, that a participant's benefit, expressed as an annual benefit, cannot exceed the lesser of (A) $160,000, or (B) 100 percent of the participant's average compensation for his or her high three years. The 100 percent of compensation limit under section 415(b)(2) does not apply to governmental plans.

Section 415(c) of the Code provides the limitations on annual additions for defined contribution plans. Section 415(c)(1) provides, in general, that contributions and other annual additions for a participant may not exceed the lesser of (A) $40,000, or (B) 100 percent of the participant's compensation.

Section 415 of the Code was amended by section 1526(a) of TRA '97 by adding a new subsection (n) that provides special rules relating to the purchase of permissive service credit.

Section 415(n)(1) of the Code provides that if the employee makes 1 or more contributions to a defined benefit governmental plan (within the meaning of section 414(d)) to purchase permissive service credit under such plan, then the requirements of this section shall be treated as met only if—

(A) the requirements of subsection (b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of subsection (b), or

(B) the requirements of subsection (c) are met, determined by treating all such contributions as annual additions for purposes of subsection (c).

Section 415(n)(3)(A) of the Code provides that the term "permissive service credit" means service credit—

(i) recognized by the governmental plan for purposes of calculating a participant's benefit under the plan,

(ii) which such participant has not received under such governmental plan, and

(iii) which such participant may receive only by making a voluntary additional contribution, in an amount determined under such governmental plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Permissive service credit may also include service credit for periods for which there is no performance of service, and notwithstanding clause (ii), may include service credited in order to provide an increased benefit for service credit which a participant is receiving under the plan.

Section 415(n)(3)(B) of the Code provides a limit on the amount of nonqualified service a participant can purchase under a defined benefit plan by providing that a plan shall fail to meet the requirements of this section if (i) more than 5 years of nonqualified service credit are taken into account for purposes of this subsection, or (ii) any nonqualified service credit is taken into account under this subsection before the employee has at least 5 years of participation under the plan.

Section 415(n)(3)(C) of the Code defines "nonqualified service credit" as permissive service credit other than (i) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in subsection (k)(3)), (ii) service (including parental, medical, sabbatical, and similar leave) as an employee described in clause (i)) of an educational organization described in section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as described under the applicable jurisdiction in which the service was performed, (iii) service as an employee of an association of employees who are described in clause (i), or (iv) military service (other than qualified military service under section 414(u)) recognized by such governmental plan.

Section 415(n) of the Code generally applies to permissive service contributions made in years beginning after December 31, 1997. However, section 1526(2) of TRA '97 contains the following transition rule:

(A) In general—In the case of an eligible participant in a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986), the limitations of Code section 415(c)(1) shall not be

applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the plan as in effect on the date of the enactment of this Act.

(B) Eligible participant—For purposes of subparagraph (A), an eligible participant is an individual who first became a participant in the plan before the first plan year beginning after the last day of the calendar year in which the next regular session (following the date of the enactment of this Act) of the governing body with authority to amend the plan ends.

Final Income Tax Regulations (the "Regulations") under section 415 of the Code were published in the Federal Register on April 5, 2007. These regulations are effective April 5, 2007, and generally apply for limitation years beginning on or after July 1, 2007.

Section 1.415(b)-1(b)(2) of the Regulations provides rules on the determination of the accrued benefit attributable to employee contributions and rollover contributions. Section 1.415-1(2)(iv) of the Final Regulations provides, in part, that if voluntary employee contributions are made to the plan, the portion of the plan to which voluntary employee contributions are made is treated as a defined contribution plan pursuant to Code section 414(k) and, accordingly, is a defined contribution plan pursuant to section 1.415(c)-1(a)(2)(i). Accordingly, the portion of the plan to which voluntary employee contributions are made is not a defined benefit plan within the meaning of paragraph (a)(2) of this section and is not taken into account in determining the annual benefit under the portion of the plan that is a defined benefit plan. Section 1.415(c)-1(a)(2)(i) of the Final Regulations provides, in part, that the portion of a plan that is treated as a defined contribution plan pursuant to Code section 414(k) is a defined contribution plan for Code section 415 purposes and the provisions thereof are satisfied if contributions and other additions to a participant's account do not exceed the lesser of $40,000, or 100 percent of the participant's compensation
for any limitation year.

With respect to ruling number one, Section L of Plan X permits a Plan X member to purchase service credit that is then counted for purposes of calculation of his or her benefit under Section N. The member had not received credit for the service which is purchased. Section L further provides that the member may only purchase service credit by making a voluntary, additional contribution to Plan X in an amount that does not exceed the an amount necessary to fund the benefit purchased.

The limitations on the purchase of service credit are effective for permissive

service credit contributions made in years beginning after December 31, 1997. Plan X permitted its members to purchase service credits prior to the effective date of section 415(n) of the Code. Section 1526(c)(2)(A) of TRA '97 provides an exception to the effective date of the limitations of Code section 415(n) to certain eligible participants in a governmental plan as described in section 414(d). Section 1526(c)(2)(B) of TRA '97 describes an eligible participant as an individual who first became a participant in the plan before the first plan year beginning after the last day of the calendar year in which the next regular session, following the date of the enactment of this Act (August 5, 1997) of the governing body with the authority to amend the plan ends. It is represented that the members of Plan X who are the subject of this ruling became participants in Plan X prior to the above dates and also made additional voluntary employee contributions to purchase service credits under Section L prior to 1997.

Section 1526(c)(2)A) of TRA '97 contains a transitional rule with respect to members of the grandfathered group, such as the members of Plan X who are the subject of this ruling. That section provides that the limitations of Code section 415(c)(1) shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than which was allowed to be purchased under the terms of the plan as in effect on the date of the enactment of this Act, which was August 5, 1997. In other words, the limitations of section 415(c)(1) cannot be applied to reduce the amount of permissive service credit that a member of the grandfathered group can purchase to an amount which is less that an amount that he or she was allowed to purchase under the terms of Plan X on August 5, 1997.

Section 1.415-3(d)(2) of the old Income Tax Regulations provided that where a defined benefit plan provides for voluntary employee contributions, these contributions are considered a separate defined contribution plan maintained by the employer which is subject to the limitations on contributions and other additions described in section 1.415-6, which means that these contributions must be tested under the limitations of Code section 415(c)(1) and cannot exceed the lesser of $40,000, or 100 percent of the participant's compensation for the limitation year. It is represented that the voluntary employee contributions made by the members of Plan X who are the subject to this ruling were tested under section 415(c) at the time they were contributed to Plan X and are within those limitations applicable for defined contribution plans for those limitation years.

Based on the above, we conclude that the service credit purchased by the Plan X participants meets the definition of permissive service credit as defined in Code section 415(n)(3)(A) even though such purchases were made prior to the effective date of section 415(n).

Therefore, with respect to ruling number one, we conclude that the after-tax

employee contributions made to Plan X prior to December 31, 1997, by a member of Plan X who is also a member of the grandfathered group described in section 1526(c)(2) of TRA '97 to purchase service credit under Section L (which contributions were not repayment of a "cash out" as described in Code section 415(k)(3)) are treated under the transitional rule of section 1526(c)(2) as "permissive service credit" contributions within the meaning of section 415(n)(1) even though these employee contributions by the grandfathered group were made to Plan X before the general effective date of TRA '97.

With respect to ruling request number two and number three, section 415(n)(1) of the Code provides, in general, that the requirements of this section are met if the contributions made to a governmental plan to purchase service credit are determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of the defined benefit plan limitations in section 415(b)(1), or by treating all such contributions as annual additions for purposes of the defined contribution plan limitations in section 415(c)(1). The test in Code section 415(n)(1) are alternative tests. The employer can choose which test to apply and the employer does not have to apply the same test to all participants in the plan.

Section 1526(c)(2)(A) of TRA "97 provides, in general that the limitations of Code section 415(c)(1) shall not be used to reduce the amount of permissive service credit which may be purchased by a member of the grandfathered group to an amount which is less than the amount which was allowed to be purchased pursuant to the terms of the plan as in effect on August 5, 1997. In other words, a member of the grandfathered group is allowed to make additional voluntary contributions to a defined benefit governmental plan to purchase service credit in an amount that exceeds the lesser of $40,000 or 100 percent of his or her compensation provided that the terms of the plan in which he or she participates allowed such contributions to be made on August 5, 1997. Further, assuming that the permissive service credits are tested under section 415(n)(1)(B), the limitations for defined contribution plans, such amount cannot be reduced by the limitations under section 415(c)(1) even though, but for section 1526(c)(2)(A) of TRA '97, such amounts would have otherwise been treated as an annual addition under section 415(c) when made to Plan X.

Therefore, with respect to your second ruling request, we conclude that section 1526(c)(2) of TRA '97 allows the use of all permissive service purchases made prior to the date of enactment of TRA '97 by a member of the grandfathered group when applying the Code section 415(n)(1)(B) test, without violation of the usual section 415(c) limits on annual additions, even though the limitations of section 415(c) might otherwise have limited the amount of such a purchase.

With respect to your third ruling request, we conclude that if the Code section

415(n)(1)(B) test is used to determine section 415 compliance of the permissive service credit, the section 415(n)(1)(A) test is not used to test section 415 compliance as to the accrued benefit derived from contributions made to purchase permissive service credits since section 415(n)(1)(A) is an alternative test.

Ruling number four is based on the conclusion reached in ruling request number three that the Code section 415(n)(1)(B) test is used to determine section 415 compliance of the permissive service credit and asks what portion, if any, of the accrued benefit derived from the permissive service purchased by a member of the grandfathered group may be excluded when testing the annual benefit under section 415(b).

A member of the grandfathered group made additional after-tax contributions to Plan X under Section L and purchased 5.8 years of permissive service credit for periods of employment when membership was mandatory but for which member contributions were not made. The member was required to pay to Board M in a single payment the member contributions the member would have made for the period of employment for which service is being purchased, plus regular interest to the date of payment. The member's contributions paid, plus interest, were not equal to the full value of the additional benefit provided. You want a ruling as to how the 5.8 years of purchased service is to be used when the limits of section 415(b) of the Code are applied to determine the maximum annual benefit that will be paid to the member from Plan X.

Your further represent that the basic monthly allowance tested under section 415(b) of the Code would be increased significantly in this case by use of the 5.8 years of purchased service in the section 415(b) calculation given the significant size of the member's final average compensation. In addition, benefit calculations that you provided show an average increase of approximately $4300 per month if the additional 5.8 years of service is tested under section 415(b).

You represent that the payment option chosen by the member includes a survivor annuity benefit of 50 percent of the member's reduced benefit to the member's designated beneficiary (his spouse) for life. You further represent that this option yields a benefit that must be reduced approximately $567 per month if all service is used in the Code section 415(b) limit calculation, including the 5.8 years of purchased service. You state that if the 5.8 years of purchased service is not included, however, because of the application of section 415(n)(1), then the monthly benefit tested against section 415(b) is smaller, and the full monthly benefit can be paid under this option.

We previously concluded that the 5.8 years of service purchased by the member is a "permissive service credit" since those years are recognized by the governmental plan for purposes of calculating a participant's benefit under the

plan, and for which the participant could only receive by making an additional voluntary employee contribution to Plan X.

You previously stated that the member contributions made to purchase this service credit were tested against the Code section 415(c) limitations when they were made to Plan X and that such contributions made were well within the section 415(c) limitations. What has not been tested is the full value of the benefit attributable to the years of service purchased. You suggest that Agency B, for section 415(b) testing purposes, should (1) calculate the part of the accrued benefit value attributable to the permissive service credit purchased, and (2) subtract this value from the annual benefit tested under section 415(b), so that no permissive service credit is used because you believe that the reference to "all such contributions" in section 415(n)(1)(A) is a reference to both employer and employee contributions which are made to facilitate the increase in the accrued benefit due to the "purchase" pursuant to Section L (which only permits the "purchase" to be made by the member's contributions, plus interest). In other words, you feel that the full value of the accrued benefit attributable to the purchased years of service (the value in excess of the amount attributable to the member's contributions) should be subtracted from the member's total benefit and only the resulting net benefit would be subject to section 415(b) testing. To do otherwise, you feel, would not give these members the full value of the transitional rule in section 1526 of TRA '97.

In general, section 415(b) of the Code limits the benefits payable under a defined benefit plan that is a governmental plan under section 414(d). However, if a participant makes mandatory employee contributions to a defined benefit plan, those contributions are treated as annual additions that are subject to the limitations of section 415(c) (which generally applies to defined contribution plans). The benefit attributable to the mandatory employee contributions is then excluded when testing whether the benefits under the defined benefit plan satisfies the limitations of section 415(b).

Mandatory employee contributions are a condition of benefit accrual. Typically, the benefit provided for the service for which mandatory employee contributions are made exceeds the benefit attributable to the mandatory contributions. It is this excess, the benefit provided by employer contributions, that is tested against the limitations of section 415(b) of the Code.

Section 415(n) of the Code allows an employee to make one or more contributions to "purchase" permissive service credit from a plan. Section 415(n) then allows one of two possibilities. First, under section 415(n)(1)(A), the entire benefit can be tested (along with benefits that are provided without the purchased permissive service credit) under section 415(b). Under this alternative, even though employee contributions are usually subject to section

415(c), the entire benefit (including the benefit attributable to such employee contributions) is tested under section 415(b).

Second, and alternatively, under section 415(n)(1)(B) of the Code, the employee contributions used to purchase the permissive service credit is tested against the limitations of section 415(c) (which is the usual procedure for employee contributions). Section 415(n)(1)(B) does not alter the application of section 415 to situations where the benefit provided by the plan for the credited service is in excess of the present value of the actuarial equivalent of the employee contributions. In that situation, part of the benefit attributable to the permissive service credit is attributable to employer contributions, and is subject to limitations of section 415(b). In other words, section 415(n) is only concerned with the treatment of the contributions made by the employee to purchase permissive service credit and does not alter the application of section 415 to benefits provided by employer contributions. The transitional rule simply makes another gloss on the situation by allowing certain employees to make large contributions, that would otherwise exceed the limitation of section 415(c), to purchase permissive service credit and to make use of section 415(n)(1)(B) for those amounts.

Therefore, with respect to your ruling request number four, we conclude that the "accrued benefit derived from all such contributions" includes only the accrued benefit attributable to contributions the member made to Plan X to purchase the permissive service credit. Agency B cannot calculate the full value of the portion of the accrued benefit attributable to the permissive service credit and subtract out this portion when testing the overall benefit under section 415(b) of the Code because the reference to all such contributions only refers to the accrued benefit attributable to the member contributions (past and future).

The same analysis applies to ruling request number five, we conclude with respect to such ruling that the annual benefit derived from both employer contributions and mandatory employee contributions attributable to the permissive service credit purchased by voluntary employee contributions, whether or not the participant is a member of the grandfathered group, is not ignored in calculating the annual benefit otherwise to be tested for Code section 415 purposes. The accrued benefit derived from mandatory employee contributions, employer contributions and the accrued benefit attributable to the permissive service credit purchased by the member, less the accrued benefit that is actuarial equivalent to the voluntary employee contributions made by the member, is subject to section 415(b) testing.

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

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This letter assumes that Plan X meet the requirements for qualification under section 401(a) of the Code and is a governmental plan as described in section 414(d).

A copy of this ruling is being sent to your authorized representative in accordance with a Power of Attorney (Form 2848) on file in this office.

If you have any questions, please contact ********** SE:T:EP:RA:T 2.

Sincerely yours,

[redacted] JOYCE E. FLOYD

Joyce E. Floyd, Manager
Employee Plans Technical Group 2

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