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Department of the Treasury

Washington, DC 20224

[Third Party Communication:

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Person To Contact:

Telephone Number:

Refer Reply To:

CC:EEE:EB:QP2

PLR-120169-24

Date:

March 24, 2025

LEGEND

Taxpayer =
Plan =

Year 1 =
Year 2 =
Actuary =
Actuarial Firm =
Amount 1 =
Amount 2 =
Amount 3 =
Amount 4 =

Dear :

This is in response to your letter dated October 8, 2024 (submitted on your behalf by your authorized representative), in which you request rulings under § 301.9100-3 of the Procedure and Administration Regulations.

The following facts and representations have been submitted under penalties of perjury in support of the requested rulings.

The Plan is a qualified defined benefit retirement plan with a calendar year plan year. The Plan files an annual Form 5500, including a Schedule SB, on a calendar year basis

to report on the Plan and trust. Taxpayer is

Taxpayer's intention had been to satisfy the remaining Year 1 minimum required contribution through an election to use a portion of the Plan's prefunding balance. However, due to an oversight, Taxpayer's election to use a portion of the Plan's prefunding balance toward the Year 1 minimum required contribution was provided to the Plan's Enrolled Actuary on September 20, Year 2, 5 days beyond the September 15, Year 2 deadline under § 1.430(f)-1(f)(2) of the Income Tax Regulations. Absent a deadline extension, there is an unpaid Year 1 minimum required contribution of Amount 1.

As soon as the issue was discovered by the Actuarial Firm, Taxpayer took corrective action:

- On September 20, Year 2, Taxpayer signed, and provided to Actuarial Firm, an election form to use Amount 2 of the Plan's prefunding balance to satisfy the remaining Year 1 minimum required contribution.
- Absent a deadline extension, missing the regulatory deadline for the election to apply a portion of the prefunding balance to the Year 1 minimum required contribution means that there would be a Year 1 unpaid minimum required contribution of Amount 1, which would result in an excise tax of Amount 3 under § 4971(a)(1) of the Internal Revenue Code. Note that the unpaid minimum required contribution is less than the portion of the prefunding balance elected to be applied of Amount 2, because if the prefunding balance is not applied toward the Year 1 minimum required contribution, there would be no shortfall amortization installment pursuant to § 430(f)(4)(A) and § 1.430(f)-1(c)(2)(i), which would reduce the amount of the year 1 minimum required contribution.
- Taxpayer made a contribution of Amount 4 on September 23, Year 2 to cure the potential unpaid Year 1 minimum required contribution in the event that the deadline extension is not approved. This was a contribution that Taxpayer had not intended to make at that time, but it took swift action to cure the potentially unpaid Year 1 minimum required contribution as soon as it was made aware of the issue. If the request for an extension of the deadline to apply Amount 2 of the Plan's prefunding balance toward the Year 1 minimum required contribution is approved, Amount 4 will remain in the Plan's trust and be applied toward the Year 2 minimum required contribution.
- Taxpayer has filed a Year 1 Form 5500 Schedule SB showing the unpaid minimum required contribution, and a Form 5330 reporting the excise tax due. Both filings were made before the due date of October 15, Year 2. If this request for an extension of the deadline to apply a portion of the Plan's prefunding balance toward the Year 1 minimum required contribution is granted, the Schedule SB will be refiled showing that the Year 1 minimum required contribution was satisfied by the prefunding balance election, and there is no unpaid Year 1 minimum required contribution.

Rulings Requested

Based on the facts and representations, the following ruling was requested:

Taxpayer requests a ruling extending the regulatory deadline under § 1.430(f)-1(f)(2) to make an election to apply the Plan's prefunding balance to satisfy the remaining minimum required contribution for the Plan for the Year 1 plan year to September 20, Year 2, as permitted by § 301.9100-3(a).

Law and Analysis

Section 430(f)(3)(A) provides that, except as set forth in section 430(f)(3)(B) through (C), in the case of any plan year in which the plan sponsor elects to credit against the minimum required contribution for the current plan year all or a portion of the prefunding balance or the funding standard carryover balance for the current plan year (not in excess of the minimum required contribution), the minimum required contribution for the plan year is reduced as of the first day of the plan year by the amount so credited by the plan sponsor. For these purposes, the minimum required contribution is determined after taking into account any waiver under section 412(c).

Section 1.430(f)-1(d) provides rules for electing to use all or a portion of a plan's prefunding balance or funding standard carryover balance to offset the minimum required contribution for a plan year.

Section 430(f)(9) delegates to the Secretary the ability to set deadlines for making elections relating to a plan's prefunding balance and funding standard carryover balance, including the election described in section 430(f)(3)(A).

Section 1.430(f)-1(f)(2)(i) provides that unless there is an exception, any election under § 1.430(f)-1 with respect to a plan year must be made no later than the last date for making the minimum required contribution for the plan year as described in section 430(j)(1).

Section 430(j)(1) provides that the due date for any payment of any minimum required contribution for any plan year is 8½ months after the close of the plan year.

Sections 301.9100-1, 301.9100-2, and 301.9100-3 provide guidance concerning the standards the IRS will use to determine whether to grant an extension of time to make a regulatory or statutory election. Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of the time (but generally no more than 6 months) under the standards set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election or a statutory election. Section 301.9100-2 lists certain elections for which automatic extensions of time to file are granted. Section 301.9100-3 generally provides guidance with respect to the granting of relief with respect to those elections not listed in § 301.9100-2. The relief requested in this case is not listed in § 301.9100-2.

Section 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of § 301.9100-2 will be granted when the taxpayer provides sufficient evidence (including affidavits described in § 301.9100-3(e)) to establish that the taxpayer acted reasonably and in good faith, and the grant of relief would not prejudice the interests of the Government.

Section 301.9100-3(b)(1) provides that a taxpayer will generally be deemed to have acted reasonably and in good faith if the taxpayer (i) requests relief under § 301.9100-1 before the failure to make a timely election is discovered by the Service; (ii) inadvertently failed to make the election because of intervening events beyond the taxpayer's control; (iii) failed to make the election because, after exercising reasonable diligence, the taxpayer was unaware of the necessity for the election; (iv) reasonably relied upon the written advice of the Service; or (v) reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(b)(3) provides that a taxpayer is deemed to have not acted reasonably and in good faith if the taxpayer (i) seeks to alter a return position for which an accuracy-related penalty has been or could be imposed under section 6662 at the time the taxpayer requests relief (taking into account any qualified amended return filed within the meaning of § 1.6664-2(c)(3)) and the new position requires or permits a regulatory election for which relief is requested; (ii) taxpayer was informed in all material respects of the required election and related tax consequences, but chose not to file the election; or (iii) taxpayer uses hindsight in requesting relief. If specific facts have changed since the due date for making the election that make the election advantageous to a taxpayer, the IRS will not ordinarily grant relief. In such a case, the IRS will grant relief only when the taxpayer provides strong proof that the taxpayer's decision to seek relief did not involve hindsight.

Section 301.9100-3(c)(1)(i) provides that the interests of the Government are prejudiced if granting relief would result in a taxpayer having a lower tax liability in the aggregate for all taxable years affected by the election than the taxpayer would have had if the election had been timely made (taking into account the time value of money).

Section 301.9100-3(c)(1)(ii) provides that ordinarily the interests of the Government will be treated as prejudiced if the tax years that would have been affected by the election had it been timely made are closed by the statute of limitations before the taxpayer's receipt of a ruling granting relief under this section.

Rulings

In this case, Taxpayer requested relief before the failure to make the timely election under § 1.430(f)-1(f)(2)(i) to use the Plan's prefunding balance toward the Year 1 minimum required contribution was discovered by the Service. Thus, Taxpayer is deemed to have acted reasonably and in good faith under the standard set forth in

§ 301.9100-3(b)(1)(i). Furthermore, the interests of the Government would not be prejudiced by the grant of an extension of time for this election under the standards set forth in § 301.9100-3(c)(1)(i) or (ii). The affidavits required under § 301.9100-3(e) are attached to your ruling request. Accordingly, we grant an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of 5 days for the making of an extension to use a portion of the Plan's prefunding balance toward the Year 1 minimum required contribution. Pursuant to this extension, the election made on September 20, Year 2 is considered timely.

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, as specified in Rev. Proc. 2025-1, 2025-1 IRB 1, § 7.01(16)(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. 2025-1, § 11.05.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter ruling.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) 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,

Linda S. F. Marshall
Senior Counsel
Qualified Plans, Branch 1
Office of Associate Chief Counsel
(Employee Benefits, Exempt Organizations, and
Employment Taxes)

cc: