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Department of the Treasury
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In Re:

Date:
July 28, 2025

LEGEND

Taxpayer =
Plan A =
Plan B =
Plan C =
Date 1 =
Date 2 =
Date 3 =
Date 4 =
Date 5 =
Date 6 =
Date 7 =
Date 8 =
Amount 1 =
Amount 2 =
Amount 3 =
Amount 4 =

Dear :

This is in response to a request for a letter ruling submitted on behalf of Taxpayer by its authorized representative on March 11, 2025 regarding the treatment of the transfer of surplus assets following the termination of its qualified defined benefit pension plan, Plan A, to two of its qualified defined contribution plans, Plan B and Plan C, under section 4980 of the Internal Revenue Code (Code).

Facts

Plan A is a defined benefit pension plan established by Taxpayer that (together with its related trust) since its inception, has been qualified under section 401(a) of the Code. Taxpayer terminated Plan A effective Date 1. Before that date, benefit accruals under Plan A were discontinued at various times for different participant groups.

Taxpayer also sponsors Plan B and Plan C, both of which are defined contribution profit-sharing plans that (together with their related trusts) since inception, have been qualified under section 401(a). Both plans have calendar plan years.

Prior to its termination, Plan A covered two groups of employees that are non-bargaining employees and bargaining employees, respectively. Plan B generally covers eligible employees who are non-bargaining employees and Plan C covers eligible employees who are bargaining employees.

Plan B includes (a) a qualified cash or deferred arrangement under section 401(k), (b) after-tax employee contributions, (c) an employer matching contributions feature in accordance with section 401(m) pursuant to which Taxpayer makes certain required matching contributions for the plan year on behalf of eligible non-bargaining employees, and (d) an employer nonelective contributions feature pursuant to which Taxpayer makes certain required contributions for each payroll period on behalf of eligible non-bargaining employees.

Plan C includes (a) a qualified cash or deferred arrangement under section 401(k), (b) after-tax employee contributions, (c) an employer matching contributions feature in accordance with section 401(m) pursuant to which Taxpayer makes certain required matching contributions for the plan year on behalf of eligible bargaining employees, and (d) an employer nonelective contributions feature pursuant to which Taxpayer makes certain required contributions for each payroll period on behalf of eligible bargaining employees.

The number of employees who were active participants in Plan A on the date it was terminated was Amount 1. The number of employees who were active participants at that time in either Plan B or Plan C was Amount 1. Thus, immediately after Plan A was terminated effective Date 1, 100% of the participants in Plan A who remained as current employees of Taxpayer (including any member of its controlled group) were active participants in either Plan B or Plan C. Of those employees, Amount 2 (85%) were active participants in Plan B and Amount 3 (15%) were active participants in Plan C.

The distribution of all benefits due to participants, surviving spouses, other beneficiaries, and alternate payees under Plan A was completed on Date 2. Following the distribution of all benefits due to participants, surviving spouses, other beneficiaries, and alternate payees under Plan A, the actuary for Plan A estimated that it had a surplus of Amount 4 as of Date 3. The surplus will be retained in the Plan A's trust pending receipt of the requested rulings described herein.

After all Plan A's liabilities have been satisfied and before the reversion of any surplus funds to Taxpayer, Taxpayer proposes to direct the trustee of Plan A to effectuate a direct transfer from Plan A to Plan B and Plan C of an aggregate amount equal to the total amount of Plan A's remaining surplus. Taxpayer proposes to further direct that this aggregate amount be divided between Plan B and Plan C in proportion to the number of participants in Plan A as of Date 1 (100% of whom were participants in either Plan B or Plan C as of Date 1) who remain as current employees of Taxpayer (including any member of its controlled group) and are active participants in, respectively, Plan B and Plan C, as of the last day of the month immediately preceding the month in which the direct transfer of assets from Plan A occurs.

Taxpayer will cause the amounts transferred to Plan B and Plan C to be credited to a suspense account under each of these plans, and amounts from those suspense accounts will be allocated to fund all or a portion of any employer nonelective contributions due in accordance with the terms of those plans (after the offset of any forfeitures). The transfers will take place following receipt of a favorable private letter ruling approving the proposed transaction. Taxpayer will direct the release of amounts from the suspense accounts for allocation to fund future nonelective contributions in accordance with section 4980 for plan years beginning with the year of the transfers. The allocations from the suspense accounts will be no less rapidly than ratably on a periodic basis over an allocation period beginning on the date of the transfer and ending on the last day of the sixth plan year after the plan year of the transfer (the "allocation period"). The minimum ratable drawdown of the suspense account over the allocation period will be measured by Taxpayer or plan administrator of each plan at periodic intervals. The amount released from the suspense account for each interval (e.g. for each plan year), applied to fund employer nonelective contributions, will be no less than the amount determined by multiplying the amount in the suspense account as of the first day of the interval by a fraction, the numerator of which is one and the denominator of which is the number of intervals remaining in the allocation period for each plan, and these amounts will be released from the suspense account at least annually. Any income earned by the suspense accounts will be allocated at least as rapidly as ratably on the same periodic basis over the remainder of the allocation period under the same procedure. The suspense accounts under each plan will not be applied to fund any employer matching contributions (within the meaning of § 1.401(k)-6) under Plan B or Plan C. Taxpayer will adopt amendments to Plan B and Plan C to accomplish this.

In addition, the proposed amendments would provide that, if any amount credited to a suspense account under that plan may not be allocated to a participant before the end of the allocation period due to any limitation under section 415, such amount will be allocated to the accounts of other participants under that plan, and if any portion of such amount may not be so allocated because of such limitation, such portion will be allocated to the participant in accordance with section 415.

Further, if any transferred amounts credited to a suspense account under Plan B or Plan C are not allowed prior to the termination date of the relevant plan, (a) such transferred amounts will be allocated to the accounts of participants in the relevant plan as of such date, except that any portion of such transferred amounts which may not be allocated due to section 415 limitations will be allocated to the accounts of other participants, and (b) if any portion of such transferred amounts may not be allocated to other participants under the relevant plan in accordance with the preceding clause (a) by reason of such limitation, such portion will be treated as an employer reversion to which section 4980 applies.

Any amounts allocated from the suspense accounts in Plan B and Plan C attributable to the transfers from Plan A and any income earned thereon will be treated as employer contributions for purposes of sections 401 and 415.

Plan A was terminated in a standard termination on Date 4. Plan A received a favorable determination letter on Date 5. An insurance company assumed the annuity payments on or about Date 6. As part of the process of terminating Plan A, Taxpayer was required to make best efforts to locate any missing participants to ensure that their benefits were properly paid and ultimately reported to the PBGC in the context of the Taxpayer's filing of Form 501 (PBGC Post-Distribution Certification for Standard Termination) and MP-100 (Missing Participants Program Plan Information). Taxpayer filed Form 501 and MP-100 with the PBGC on Date 7, and was then in a position to confirm the amount of excess Plan A assets remaining and evaluate whether the excess Plan A assets could be transferred to one or both of the defined contribution plans sponsored by Taxpayer. The effort to locate and contact missing participants took far longer than Taxpayer contemplated and this effort contributed to the delay in finalizing the contracts with the annuity provider. In view of the number of missing participants and certain complexities involving Plan A, Taxpayer had to resolve questions in connection with the annuity provider's assumption of liabilities and, once the excess amount was known, determine how to best proceed with the remaining assets. The missing participants were not resolved until the end of Date 8. After that date, there were no remaining participants in Plan A; all participants either had received distributions from Plan A, or had an annuity provider designated to assume the liability for paying their Plan A pension benefit. In addition, the process of obtaining guidance has also delayed the distribution of the remaining assets in Plan A's trust.

Rulings Requested

1. Plan B and Plan C may be treated as one plan for purposes of section 4980 pursuant to section 4980(d)(5)(D), and together constitute a single "qualified replacement plan" for purposes of section 4980(d)(2).

2. The direct transfer from Plan A to Plan B and Plan C of an aggregate amount equal to 100% of the maximum amount that the Taxpayer could receive as an employer reversion from Plan A will be treated as follows:

a. The aggregate amount transferred will not be included in the gross income of Taxpayer;
b. No deduction will be allowable with respect to the aggregate amount transferred; and
c. The aggregate amount transferred will not be treated as an employer reversion for purposes of section 4980, and Taxpayer will not be subject to any excise tax under section 4980 with respect to the amount transferred.

3. The allocation of the aggregate amount of the direct transfer from Plan A between Plan B and Plan C in proportion to the number of participants in Plan A as of Date 1, who remain as current employees of Taxpayer (including any member of its controlled group) and are active participants in, respectively, Plan B and Plan C as of the last day of the month immediately preceding the month in which the direct transfer of assets from Plan A occurs is consistent with the treatment of Plan B and Plan C as a single qualified replacement plan for the purposes of section 4980(d)(2) and the requirements of that provision.

4. The crediting of the amounts transferred from Plan A to suspense accounts in Plan B and Plan C, as applicable, and the allocation of the assets in each suspense account to fund all or a portion of the periodic employer nonelective contributions due in accordance with the terms of each of Plan B and Plan C will satisfy the allocation requirement of section 4980(d)(2)(C).

5. An allocation of the surplus in the suspense account in 2026 may be treated as an allocation for the year of the transfer (2025) when used for a 2025 nonelective contribution, provided that the 2025 nonelective contribution is made no later than the due date, including extensions, of the Taxpayer’s federal income tax return for the 2025 tax year.

6. In view of the requirement in Rev. Rul. 89-87 that plan assets be distributed as soon as administratively feasible following the termination of the plan, that Plan A be granted an extension of time to distribute its remaining assets through the date that is 60 days after the date this letter ruling is resolved (either approved or denied) so that the retention of assets in Plan A’s trust, after all benefit liabilities have been satisfied, and the transfer of the remaining assets to the qualified retirement plans, will be considered to have been made as soon as administratively feasible following the termination of Plan A.

Applicable Law

Section 4980(a) imposes a 20 percent excise tax on the amount of any employer reversion from a qualified plan. Under section 4980(d)(1), the excise tax under section 4980 is increased to 50 percent with respect to an employer reversion from a qualified plan unless the employer either establishes or maintains a “qualified replacement plan”, or the plan provides for certain benefit increases which take effect on the termination date.

Section 4980(c)(1) generally defines a “qualified plan” as any plan meeting the requirements of section 401(a) or section 403(a), other than a plan maintained by an employer if such employer has, at all times, been exempt from tax under Subtitle A, or a governmental plan (within the meaning of section 414(d)).

Section 4980(c)(2) generally defines the term “employer reversion” as the amount of cash and fair market value of other property received (directly or indirectly) by the employer from the qualified plan.

Section 4980(d)(2) defines a “qualified replacement plan” as a qualified plan established or maintained by the employer in connection with a qualified plan termination, which satisfies the participation, asset transfer, and allocation requirements of section 4980(d)(2)(A), (B), and (C).

Section 4980(d)(2)(A) requires that at least 95 percent of the active participants in the terminated plan who remain as employees of the employer after the termination be active participants in the replacement plan.

Section 4980(d)(2)(B) requires that a direct transfer from the terminated plan to the replacement plan be made before any employer reversion, and that the transfer be an amount equal to the excess (if any) of (i) 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to section 4980(d), over (ii) the amount equal to the present value of the aggregate increases in the accrued benefits under the terminated plan of any participants or beneficiaries pursuant to a plan amendment adopted during the 60-day period ending on the date of termination of the qualified plan, and which takes effect immediately on the termination date.

Section 4980(d)(2)(B)(iii) provides that in the case of the transfer of any amount under section 4980(d)(2)(B)(i) from a terminated plan, such amount is not includible in the gross income of the employer, no deduction is allowable with respect to the transfer, and the transfer is not treated as an employer reversion for purposes of section 4980.

Section 4980(d)(2)(C)(i) provides that if the replacement plan is a defined contribution plan, the amount transferred to the replacement plan must be (I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or (II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

Section 4980(d)(2)(C)(ii) provides that if by reason of any limitation under section 415, any amount credited to a suspense account under section 4980(d)(2)(C)(i)(II) may not be allocated to a participant before the close of the 7-plan-year period, that amount shall be allocated to the accounts of other participants, and if any portion of that amount may not be allocated to other participants by reason of such limitation, it shall be allocated to the participant as provided in section 415.

Section 4980(d)(2)(C)(iii) provides that any income on any amount credited to a suspense account under section 4980(d)(2)(C)(i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under section 4980(d)(2)(C)(i)(II) (after application of section 4980(d)(2)(C)(ii)).

Section 4980(d)(2)(C)(iv) provides that if any amount credited to a suspense account under section 4980(d)(2)(C)(i)(II) is not allocated as of the termination date of the replacement plan, (I) such amount shall be allocated to the accounts of the participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and (II) if any portion of such amount may not be allocated to other participants under the preceding subclause by reason of such limitation, that portion shall be treated as an employer reversion to which section 4980 applies.

Section 4980(d)(4)(A) provides that a benefit may not be increased under section 4980(d)(2)(B)(ii) or section 4980(d)(3)(A), and an amount may not be allocated to a participant under section 4980(d)(2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or section 415.

Section 4980(d)(4)(B) provides that any increase in benefits under section 4980(d)(2)(B)(ii) or section 4980(d)(3)(A), or any allocation of any amount (or income allocable thereto) to any account under section 4980(d)(2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

Section 4980(d)(5)(D)(i) provides that for purposes of determining whether there is a qualified replacement plan the Secretary may provide that two or more plans may be treated as one plan.

Revenue Ruling 1989-87, 1989-27 I.R.B. 5, 1989-2 C.B. 81, provides that a pension, profit-sharing or stock bonus plan, under which benefit accruals have ceased, is not terminated if, after an amendment is adopted to terminate the plan, the plan assets are not distributed as soon as administratively feasible but are held in the trust which remains in existence in order to make distributions when employees become entitled to receive payments as provided under the terms of the plan as they exist when the amendment is adopted.

Revenue Ruling 2003-85, 2003-32 I.R.B. 291, provides that the direct transfer from a terminating plan that did not provide for increases in the accrued benefit of participants to a plan intending to be a qualified replacement plan satisfied the requirements of section 4980(d)(2)(B) when the amount transferred was at least 25 percent of the maximum amount that the employer could receive as an employer reversion.

Analysis

With respect to your first request, section 4980(d)(5)(D)(i) authorizes the Secretary of Treasury to treat two or more plans as one plan for purposes of determining whether there is a qualified replacement plan. Taxpayer represents that Plan B and Plan C will receive the excess assets from Plan A. Taxpayer also represents that it will effectuate a direct transfer from Plan A to Plan B and Plan C of an aggregate amount equal to the total amount of Plan A's remaining surplus. Taxpayer proposes to further direct that this aggregate amount be divided between Plan B and Plan C in proportion to the number of participants in Plan A as of Date 1 (100% of whom were participants in either Plan B or Plan C as of Date 1) who remain as current employees of Taxpayer (including any member of its controlled group) and are active participants in, respectively, Plan B and Plan C, as of the last day of the month immediately preceding the month in which the direct transfer of assets from Plan A occurs. This is consistent with the treatment of the Plan B and Plan C as a single qualified replacement plan. Thus, pursuant to this provision, Plan B and Plan C may be treated as one plan pursuant to section 4980(d)(5)(D), and thus constitute a single qualified replacement plan for purposes of section 4980(d)(2) with respect to Plan A.

With respect to your second request, Taxpayer represents that the direct transfers of assets from Plan A to Plan B and Plan C will be an aggregate amount equal to the total amount of Plan A's remaining surplus. These transfers are transfers under section 4980(d)(2)(B)(i) from a terminated plan. Therefore, the aggregate amount transferred will not be included in Taxpayer's gross income, no deduction will be allowable with respect to the aggregate amount transferred, the aggregate amount transferred will not be treated as an employer reversion for purposes of section 4980, and Taxpayer will not be subject to excise tax under section 4980 with respect to the amount transferred.

With respect to your third request, Taxpayer represents that it proposes to further direct that the aggregate amount of assets from Plan A be divided between Plan B and Plan C in proportion to the number of participants in Plan A as of Date 1 who remain as current employees of Taxpayer (including any member of its controlled group) and are active participants in, respectively, Plan B and Plan C, as of the last day of the month immediately preceding the month in which the direct transfer of assets from Plan A occurs. This allocation is consistent with the treatment of Plan B and Plan C as a single qualified replacement plan for the purposes of section 4980(d)(2) and the requirements of that provision.

With respect to your fourth request, Taxpayer represents that the crediting of the amounts transferred from Plan A to a suspense account in Plan B and Plan C and the allocation of each Plan B and Plan C suspense account to fund all or a portion of the nonelective contributions due under the terms of those plans at least as rapidly as ratably on a periodic basis over an allocation period beginning with the plan year in which the transfer occurs and ending with the timely funding of employer contributions for the sixth plan year after the plan year of transfer, with the minimum ratable drawdown of the suspense account measured by Taxpayer on periodic intervals designated by Taxpayer over the allocation period, and the allocation of any income earned on amounts in the suspense accounts as least as rapidly as ratably on the same periodic basis over the remainder of the allocation period under the same procedure. This will satisfy the allocation requirement of section 4980(d)(2)(C).

With respect to your fifth request, section 4980(d)(2)(C)(i)(II) provides for the portion of the amount transferred to a qualified replacement plan to be credited to a suspense account and allocated from that account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer. If the transfer of the remaining surplus assets from Plan A to Plans B and C is made during 2025, this release of amounts from the two suspense accounts during 2026 for allocation for the 2025 plan year will not fail to satisfy the requirement to make the first set of periodic allocations from the suspense account in accordance with section 4980(d)(2)(C)(i)(II) provided that the 2025 nonelective contribution is made no later than the due date, including extensions, of the Taxpayer’s federal income tax return for the 2025 tax year.

With respect to your sixth request, Plan A was terminated in a standard termination on Date 4. Plan A received a favorable determination letter on Date 5. An insurance company assumed the annuity payments on or about Date 6. The distribution of all benefits due to participants, surviving spouses, other beneficiaries, and alternate payees under Plan A was completed on Date 2. All that remains to complete the termination is to distribute the surplus plan assets as soon as administratively feasible. Whether a distribution is completed as soon as administratively feasible has been interpreted in Rev. Rul. 89-87 generally to require distribution within one year of the date of termination.

Exceptions to this one-year rule are limited and depend on the facts and circumstances of the plan termination. Taxpayer has represented that the effort to locate and contact missing participants took far longer than Taxpayer may have contemplated, and such effort contributed to the delay in finalizing a contract with an annuity provider. In addition, Taxpayer had to resolve questions in connection with the annuity provider's assumption of liabilities and, once the excess amount was known, determine how best to proceed with addressing Plan A's remaining assets. The missing participants were not resolved until the end of Date 8. After that date, there were no remaining participants in Plan A; all participants either had received distributions from Plan A, or had an annuity provider designated to assume the liability for paying their Plan A pension benefit. In addition, the process of obtaining this letter ruling has also delayed the distribution of the remaining assets in Plan A’s trust.

Based on the facts and circumstances as represented by Taxpayer, we conclude that, if any amounts remaining in Plan A's trust are transferred to Plan B and Plan C by the date that is 60 days after the date of this letter ruling, then Plan A will not be treated as failing to meet the requirement to distribute plan assets as soon as administratively feasible as a result of the fact that assets will remain in Plan A's trust for a period of time after all other benefits and liabilities have been distributed.

This ruling letter is based on the representation that Plan A, Plan B, and Plan C are qualified under section 401(a) and that their related trusts are tax-exempt under section 501(a) at all times relevant to this ruling letter.

The rulings contained in this letter are based upon information and representations submitted by your authorized representatives and accompanied by a penalty of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2025-1, 2025-1 I.R.B. 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.

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 each of your authorized representatives.

Sincerely,

Jeremy Lamb
Senior Counsel
Qualified Plans Branch 2
Office of Associate Chief Counsel
(Employee Benefits, Exempt Organizations, and Employment Taxes)

cc: