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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

200246033

AUG 21 2002

UIL: 4971.00-00 T:EP:RA:T1

In re: Plan =

Company =

Consulting Firm Z =

This letter constitutes notice that waivers of the 10 percent excise tax due under section 4971(f)(1) of the Internal Revenue Code have been granted with respect to the liquidity shortfall for the Plan for the first, second, and fourth quarters of the plan year ending December 31, 2001. Hereinafter these three quarters will be known respectively as the first, second, and third impacted quarters.

The waivers of the 10 percent tax have been granted in accordance with section 4971(f)(4) of the Internal Revenue Code. 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 shortfall for the Plan arose as a result of the inability of the Company to satisfy the liquidity requirement of section 412(m)(5) of the Code for the quarters ending March 31, 2001, June 30, 2001, and December 31, 2001.

The information furnished indicates that the Company was unaware that liquidity shortfalls existed for the first and second impacted quarters until December 2001, and that the Company was unaware of the liquidity shortfall for the third impacted quarter until August 2002. After being informed, in December 2001, of the excise taxes due

because of the liquidity shortfalls in the first and second impacted quarters, the Company requested a waiver of the respective excise taxes. After being informed, in August 2002, of the excise tax due because of the shortfall in the third impacted quarter, the Company modified their request to also include a waiver of the excise tax with respect to the third impacted quarter.

While the actuaries for the Plan, Consulting Firm Z, did not inform the Company about the liquidity shortfalls for the first and second impacted quarters until December 2001, Consulting Firm Z did recommend, in August 2001, that the Company, in order to avoid a quarterly contribution requirement for the 2002 plan year, contribute an amount to the Plan for the 2000 plan year that would increase the funded status of the Plan to 100 percent as of the beginning of the 2001 plan year. The Company, in August 2001, contributed to the Plan that recommended amount (the "August 2001 Contribution"). The August 2001 Contribution, which was in the form of liquid assets, was of an amount large enough so that the Plan did not have a liquidity shortfall in the quarter ending September 30, 2001. However, the August 2001 Contribution was not of an amount large enough for the Plan to avoid having a liquidity shortfall for the quarter ending December 31, 2001 (that is, the third impacted quarter). The Company has since adopted a policy of maintaining the funding of the Plan at no less than 100 percent of current liability. Note that the other information available to the Company was not sufficient for it to determine that there were liquidity shortfalls.

Consulting Firm Z is a well respected leading firm in the field of pension actuarial services with offices throughout the United States and had been preparing the Forms 5500 for the Company's plans for many years. Consulting Firm Z had material in its possession, before the payment due date of the first impacted quarter, to put it on notice of the potential for liquidity shortfalls but did not timely make any calculations, nor did it inform the Company of the potential for liquidity shortfalls in a timely manner. It is our understanding that the actuaries in the branch office of Consulting Firm Z that had been preparing the Forms 5500 for the Plan are currently working with the actuarial practice director of Consulting Form Z on a technical memorandum describing the liquidity shortfall issue, that will be distributed to all Consulting Firm Z consulting actuaries in the United States, to enable these consulting actuaries to better serve their customers in this regard.

Based on the information above we conclude that the liquidity shortfalls experienced by the Plans was due to reasonable cause and not willful neglect and that reasonable steps were taken to remedy such liquidity shortfalls.

Because the liquidity requirement of section 412(m)(5) of the Code was satisfied for the Plan for the quarter ending March 31, 2002, the 100 percent excise tax of section 4971(f)(2) does not apply with respect to the liquidity shortfall that existed for the Plan for the first, second quarter, and fourth quarters of the plan year ending December 31, 2001.

This ruling is being given with the understanding that all the representations made pursuant to this request are accurate. If such representations made pursuant to this request are not accurate, the Company may not rely upon this ruling letter.

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

A copy of this letter has been sent to the Manager, Employee Plans Classification in A copy of this letter is also being furnished to your authorized representative pursuant to a power of attorney (Form 2848) on file.

If you have any questions on this ruling letter, please contact

Sincerely,

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