Significant Index No. 401.00 -00

200319010

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

FEB 14 2003

T:EP:RA:T:A1

In re:

Company =

Union =

Date =

Pension Plan =

The letter constitutes notice that your request of April 26, 2002, for a ruling that the proposed amendment to the Pension Plan described in Exhibit B of that request is reasonable and provides only for de minimis increases in Pension Plan liabilities within the meaning of sections 401(a)(33) of the Internal Revenue Code (the "Code") and 204(i) of the Employee Retirement Income Security Act of 1974 (ERISA), has been denied.

Section 401(a)(33)(A) of the Code and section 204(i)(1) of ERISA provide that a trust which is part of a plan to which that paragraph applies shall not constitute a qualified trust under that section if an amendment to such plan is adopted while the employer is a debtor in a case under title 11, United States Code, or similar Federal or State law, if such amendment increases liabilities of the plan by reason of, (i) an increase in benefits, (ii) any change in the accrual of benefits, or (iii) any change in the rate at which benefits become nonforfeitable under the plan, with respect to the employees of the debtor, and such amendment is effective prior to the effective date of such employer's plan of reorganization.

Section 401(a)(33)(B)(ii) of the Code and section 204(i)(2)(A) of ERISA provide that that paragraph shall not apply to any plan amendment if the Secretary determines that such amendment is reasonable and provides for only de minimis increases in the liabilities of the plan with respect to employees of the debtor.

The information furnished indicates that the Company entered into a collective bargaining agreement (the "Agreement") with the Union that provides for special cash payments ("Special Cash Payments") to certain surviving spouses of deceased represented hourly Pension Plan participants. Under the Agreement, the Company has the option of making the Special Cash Payments directly or amending the Pension Plan to permit the payment of the Special Cash Payments from the Pension Plan.

The information furnished also indicates that the Company filed voluntary petitions for reorganization under title 11 of the United States Bankruptcy Code on Date, and that the Company expects that the Pension Benefit Guaranty Corporation (PBGC) will soon initiate involuntary termination procedures (the PBGC provided us with their views on this request and confirmed that such was the case). The Company has also indicated that the payment of the Special Cash Payments by the Pension Plan rather than directly by the Company would have no material effect on the Company's prospects for recovery. Therefore, it was tentatively concluded under these facts that an amendment to permit the payment of the Special Cash Payments from the Pension Plan was not reasonable within the meaning of sections 401(a)(33) of the Internal Revenue Code and 204(i) of ERISA.

You were informed by telephone call of November 26, 2002, of our tentative denial and were offered a conference of right. You, by telephone call of January 24, 2003, declined our offer of a conference of right. Accordingly our tentative denial is now final.

This 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.

A copy of this letter is being sent to the Manager, Employee Plans Classification in A copy of this letter is also being sent to the Manager Employee Plans Determinations in

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

Sincerely,

James E. Holland, Jr.

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