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Internal Revenue Service

Significant Index No. 4971 .OOOO-00

Department of the Treasury

Washington, DC 20224

Contact Person:

Telephone Number:

In Reference to:

T:EP:RA:T:A1

Date:

FEB 2 0 2001

In re: Plan =

Company =

This letter constitutes notice that waivers of the 10 percent tax under section 4971(f)(l) of the Internal Revenue Code have been granted for the above-named defined benefit plan, for the first, third, and fourth quarters of the plan year ending March 31, 1998.

The waivers of the IO percent tax have been granted in accordance with section 4971 (f)(4) of the Internal Revenue Code, which was added to the Code by the Small Business Job Protection Act of 1996, Pub. L. 104-188. 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 quarters 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 June 30, 1997, December 31, 1997, and March 31, 1998.

189

In mid-1996, the Company discovered that single sum benefits from the Plan in prior years had been incorrectly calculated. The effect of this error was twofold: (1) large disbursements were paid in order to correct the miscalculations and (2) the inclusion of the individuals who received the corrected benefits as Plan participants caused the Plan to have in excess of 100 participants for the plan year ending March 31, 1997. In addition, in 1997, the Company lost a contract with the customer who provided its largest single source of revenue. For the years 1997 through 1999 the Company experienced substantial net losses. The Company is now in the process of restructuring its debt **and** refocusing its marketing efforts. To correct the liquidity shortfall the Company made contributions in the second half of 1998 and throughout 1999. The Plan currently satisfies the liquidity requirements of section 412(m)(5) of the Code and has satisfied these requirements since April 1, 1998.

A full correction of the liquidity shortfalls within the prescribed periods would have imposed a substantial financial hardship on the Company. Accordingly, we conclude that the liquidity shortfalls were due to reasonable cause and not willful neglect, and that the Company has taken reasonable steps to remedy the liquidity shortfalls that existed in the plan year beginning April 1, 1997.

Because the liquidity requirement of section 412(m)(5) of the Code was satisfied for the quarter ending June 30, 1998, the 100 percent excise tax of section 4971 (f)(2) does not apply with respect to the liquidity shortfall that existed for the first, third, and fourth quarters of the plan year.

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 Area Office in A copy of this letter is also being furnished to your authorized representative pursuant to a power of attorney (Form 2848) on file.

Sincerely,

for Ken Yednock, Manager
Employee Plans Technical
Tax Exempt and Government
Entities Division

190