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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

OCT 08 2014

U.I.L. 401.01-03

T:EP:RA:A2

Company =

Pension Plan =

Profit Sharing Plan =

Dear

This is in response to a request for a private letter ruling dated January 22, 2014, as supplemented by correspondence dated March 24, 2014. You request a ruling that the Company's ability to implement a transaction freezing accruals and contributions under a floor-offset arrangement for certain participants would not be affected by Revenue Ruling 76-259 or section 411(d)(6) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling request.

The Company currently provides retirement benefits to certain employees under a floor-offset arrangement under which the Pension Plan provides the "floor benefit" and the Profit Sharing Plan provides the "offset benefit." The Company has maintained the floor-offset arrangement for many years and has consistently received favorable

determination letters from the Internal Revenue Service with respect to the plans linked under that arrangement.

Under the arrangement, participants may receive a normal retirement benefit equal to (i) the participant's "gross" benefit under the Pension Plan payable at normal retirement age (the "floor benefit"), less (ii) the annuity value of the participant's vested Profit Sharing Plan balance, determined as of the participant's termination of employment converted to an actuarially equivalent annual annuity payable for the life of the participant commencing at the participant's normal retirement date.

The Company intends to freeze benefit accruals for certain participants under the Pension Plan (the "Affected Participants") and cease discretionary contributions for those participants under the Profit Sharing Plan. When implemented, this transaction will limit the aggregate Pension Plan obligations for the Affected Participants to the amount of such obligations as of the freeze date. The impact of the transaction on an Affected Participant will be that, upon termination of employment, a participant's Pension Plan benefit will be his or her accrued benefit as of the freeze date offset by the annuity value of his or her vested Profit Sharing Plan account as of his or her termination of employment, the offset benefit. This offset benefit is calculated as the participant's vested Profit Sharing Plan balance determined as of the participant's termination of employment converted to an actuarially equivalent annual annuity payable for the life of the participant commencing at the participant's normal retirement date.

The Company intends to freeze the accrued Pension Plan benefits of the Affected Participants. Following the freeze date, all discretionary contributions under the Profit Sharing Plan will cease with respect to the Affected Participants, except for certain final contributions with respect to compensation earned between the beginning of the year and the freeze date.

As a result of the freeze transaction, an Affected Participant will be entitled to receive, at termination of employment, his or her gross benefit under the Pension Plan, calculated at the freeze date, offset by the annuity value of his or her vested Profit Sharing Plan account, determined as of the participant's termination of employment. This means that the gross benefit of an Affected Participant under the Pension Plan will remain fixed, as of the freeze date, and that the offset portion, valued and applied as of his or her termination of employment, will reflect any final Profit Sharing Plan contribution described in the above paragraph, plus investment gains and losses until such termination.

The freeze transaction will not change the manner in which an Affected Participant's retirement benefit will be calculated, nor will it alter the timing of the calculation. After the freeze is implemented, an Affected Participant's Pension Plan benefit, payable at normal retirement age, will still be calculated at his or her termination of employment and this benefit will still equal his or her floor Pension Plan amount minus his or her offset Profit Sharing Plan amount. The freeze transaction will affect only the amounts of

the floor and offset benefits. More specifically, beyond the freeze date, an Affected Participant's Pension Plan floor benefit will not reflect any additional accruals nor will his or her offset benefit reflect additional Profit Sharing Plan contributions (or earnings attributable to such contributions) that might have been made on account of compensation earned by the participant after the freeze date, other than the final contribution previously described.

Requested Ruling

Based on the foregoing facts and representations, you request a ruling that neither Revenue Ruling 76-259 nor section 411(d)(6) of the Code affects the Company's ability to freeze accruals under the Pension Plan with respect to Affected Participants and to thereafter provide benefits to such participants in the same manner as before the freeze.

Analysis

Revenue Ruling 76-259 provides certain requirements that a floor-offset arrangement must satisfy in order to be qualified under section 401(a) of the Code. Under the Revenue Ruling, benefits will not be considered definitely determinable unless the benefit offset by the profit sharing plan is determined in a manner that precludes discretion on the part of the employer with respect to the calculation and the timing of the offset. In addition, the accrued benefit under the defined benefit plan determined without regard to the offset derived from the profit sharing plan must satisfy the requirements of section 411(b)(1) of the Code, and the benefit offset must be equal to the amount deemed provided on the determination date by the vested portion of the account balance in the profit sharing plan (plus amounts that would have been provided by any prior distribution from the account balance).

Section 411(d)(6) of the Code provides that benefits that have been accrued or earned may not be retroactively reduced through a plan amendment. Section 411(d)(6)(A) states:

> (A) In general.--A plan shall be treated as not satisfying the requirements of this section if the accrued benefit of a participant is decreased by an amendment of the plan, other than an amendment described in section 412(d)(2), or section 4281 of the Employee Retirement Income Security Act of 1974.

In this case, the criteria in Rev. Rul. 76-259 are satisfied. Each plan has consistently received favorable determination letters. There is no employer discretion with respect to the offset calculation or the timing with which it is applied; the Pension Plan benefit accruals satisfy the requirements of section 411(b)(1) of the Code without regard to the profit sharing plan offset; and the amount of the benefit offset is the amount deemed provided by the vested portion of the profit sharing account balance (plus amounts attributable to prior distributions).

The proposed freeze amendment does not violate the provisions of section 411(d)(6) of the Code because it does not retroactively reduce benefits that have been accrued as of the date of the plan amendment. This amendment also does not eliminate or reduce an early retirement benefit or a retirement-type subsidy and it does not eliminate an optional form of benefit.

Accordingly, we conclude that neither Revenue Ruling 76-259 nor section 411(d)(6) of the Code adversely affect the Company's ability to freeze accruals under the Pension Plan with respect to Affected Participants and to thereafter provide benefits to such participants in the same manner as before the freeze.

This ruling is based on the representation that the Pension Plan and Profit Sharing Plan are qualified under section 401(a) of the Code, and their related trusts are exempt from taxation under section 501(a) of the Code, at all times relevant to this transaction.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section or either the Code or regulations which may be applicable thereto.

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

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

If you wish to inquire about this ruling, please contact

Sincerely yours,

William B. Hulteng
Manager, Employee Plans Technical

Enclosures:
Deleted Copy of letter ruling
Notice 437

cc: