



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

NOV 10 2004

In re:

This letter constitutes notice that conditional approval has been granted to extend the amortization period for amortizing the unfunded liabilities (described in section 412(b)(2)(B) of the Internal Revenue Code (the "Code") and section 302(b)(2)(B) of the Employee Retirement Income Security Act of 1974 (ERISA) of the Plan. The extension is granted for the amortization period for amortizing unfunded liabilities of the Plan for the plan year beginning January 1, 2003.

The particular unfunded liability for which the extension of the amortization period is granted is the single amortization base of the plan created by combining the three existing amortization bases as of January 1, 2003, in accordance with section 1.412(b)-1(d) of the (proposed) income tax regulations. The remaining amortization period of this single amortization base (before extension) was 4.60 years. The extension granted to this amortization base is 3.40 years. Accordingly, the remaining amortization period of this amortization base (after extension) is 8.00 years.

The extension of the amortization period of the unfunded liabilities of the Plan has been granted in accordance with section 412(e) of the Code and section 304(a) of ERISA. Section 412(e) of the Code and section 304(a) of ERISA authorize the Secretary to extend the period of time required to amortize any unfunded liability (described in section 412(b)(2)(B) of the Code and section 302(b)(2)(B) of ERISA) of a plan for a period of time (not in excess of 10 years) if the Secretary determines that such extension would carry out the purposes of ERISA and would provide adequate protection for participants under the plan and their beneficiaries and if the Secretary determines that the failure to permit such extension would (1) result in (A) a substantial risk to the voluntary continuation of the plan, or (B) a substantial curtailment of pension benefit levels or employee compensation, and (2) be adverse to the interests of plan participants in the aggregate.

Section 101 of Reorganization Plan No. 4 of 1978, 1979-1 C.B. 480, transferred the authority for issuing rulings under section 304(a) of ERISA from the Secretary of Labor to the Secretary of the Treasury. Accordingly, the amortization period for amortizing the unfunded liabilities of the Plan is extended as described above under section 412(e) of the Code and section 304(a) of ERISA.

The Plan is a single employer defined benefit plan. The interest rate applicable for the remaining amortization period of the amortization base for which the extension has been granted is the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the first month of such plan year), or (B) the rate of interest used in determining costs.

As of January 1, 2003, the value of the assets of the Plan was approximately equal to 72% of the Plan's current liability. For the plan year beginning January 1, 2003, the Plan had a funding deficiency under section 412 of the Code (after taking into account this extension) because contributions were not made on a timely basis.

The Company is a manufacturer of Product. Prior to Date 1, the Company was debt-free and ownership of the Company was spread among six family members. Effective Date 1, the only family member actively involved in the business on a daily basis acquired ownership from the other family members. In order to finance this acquisition, the Company borrowed Amount 1 from the Bank, securing the amount with the business assets of the Company and the unlimited personal guaranty, excluding personal residences, of the owner.

The owner of the Company represents that in [REDACTED], the Company reported significant losses for the first time in the [REDACTED] years he has been involved in the management of the business. In response, on Date 2, the Company eliminated approximately [REDACTED]% of its staff through permanent layoffs. The owner represents that the Company can handle its current workload and can achieve profitability at the reduced staff levels.

Because the prospects for recovery are uncertain and because the Plan is underfunded, we are granting this extension subject to the following conditions:

- (1) The contributions required to satisfy the minimum funding standard (taking into account the extension) for the plan years ending December 31, 2004, and 2005, are to be timely made as defined in section 412(c)(10) of the Code (without a waiver being granted for such years).
- (2) The Company pays, within 60 days of the date of this letter, the 10% excise tax applicable under section 4971(a) of the Internal Revenue Code associated with the funding deficiency for the plan year ended December 31, 2003.

If these conditions are not satisfied, the extension granted for the plan year beginning December 31, 2003, is retroactively null and void. You agreed to these conditions in a letter (which was transmitted by facsimile) dated November 4, 2004.

Your attention is called to section 412(f) of the Code and section 304(b) of ERISA which describe the consequences that would result in the event the plan is amended to increase benefits, change the rate in the accrual of benefits or to change the rate of vesting, if an extension of time under section 412(e) is in effect with respect to the plan. Please note that any amendment to a profit sharing plan or any other retirement plans (covering employees covered by this plan) maintained by the Company, to increase the liabilities of those plans would be considered an amendment for purposes of section 412(f) of the Code and section 304(b) of ERISA. Similarly, the establishment of a new profit sharing plan or any other retirement plan by the Company (covering employees covered by this plan) would be considered an amendment for purposes of section 412(f) of the Code and section 304(b) of ERISA.

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.

When filing Form 5500 for the plan year ending December 31, 2003, the date of this letter should be entered on the Schedule B (Actuarial Information). We are furnishing a copy of this letter to the enrolled actuary for the plan in accordance with a power of attorney (Form 2848) on file. A copy of this letter is also being sent to the Manager, Employee Plans Classification in

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

Sincerely,

A handwritten signature in cursive script that reads "James E. Holland, Jr." with a long, sweeping underline.

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