

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact: \_\_\_\_\_, ID No. \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Refer Reply To:  
CC:EEE:EB:QP3  
PLR-123645-23

Date:  
June 03, 2024

In Re:

Taxpayer = \_\_\_\_\_  
Plan A = \_\_\_\_\_  
  
Plan B = \_\_\_\_\_

Dear \_\_\_\_\_ :

This letter constitutes notice that the waiver of the minimum funding standard for Plan A and Plan B (collectively, Plans) for the plan year beginning \_\_\_\_\_, is approved subject to the conditions listed below. This waiver is for the remaining unpaid minimum required contributions for the plan year beginning \_\_\_\_\_; all waiver amortization payments attributable to this waiver and all outstanding waivers must be paid as stated in section 412(c)(1)(C) of the Internal Revenue Code (Code).

This waiver is contingent on Taxpayer's satisfaction of all of the following conditions, and the failure to satisfy any of these conditions renders this waiver retroactively null and void.

1. Collateral acceptable to the Pension Benefit Guaranty Corporation (PBGC) is provided to the Plans for the full amount of the minimum funding waiver for the plan year beginning \_\_\_\_\_, by the date agreed upon by Taxpayer, but no later than 120 days from the date of this private letter ruling;
2. Starting with the first quarterly contribution due after the date of this private letter ruling, Taxpayer makes timely contributions equal to the required quarterly contributions to each of the Plans while a waiver under section 412(c) is in effect with respect to the Plans, and for this purpose, the total amount of each quarterly contribution for each plan will be determined in accordance with section 430(j)(3)(D) and, whenever applicable, sections 430(j)(3)(E) and 430(j)(4);

3. Taxpayer makes timely contributions to the Plans in an amount sufficient to meet the minimum funding requirements for each of the Plans for the plan years ending \_\_\_\_\_, through \_\_\_\_\_, by \_\_\_\_\_, through \_\_\_\_\_, respectively;
4. Under section 412(c)(7), Taxpayer is restricted from amending the Plans to increase benefits and/or Plans' liabilities while a waiver under section 412(c) is in effect with respect to the Plans, except to any extent otherwise permitted under section 412(c)(7)(B), in which case Taxpayer must copy PBGC on any correspondence with the IRS regarding notification of or application for any such exception;
5. Taxpayer provides proof of payment of all contributions described above to the IRS and PBGC within 5 business days of each payment thereof, using the following fax numbers or addresses:

This waiver is granted in accordance with section 412(c) of the Code and section 302 of the Employee Retirement Income Security Act of 1974 (ERISA).

Section 412(c)(1) of the Code provides generally that if an employer is unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship, and application of the standard would be adverse to the interests of plan participants in the aggregate, the minimum funding standard requirements may be waived for the year with respect to all or any portion of the minimum funding standard.

Section 412(c)(2) provides that the factors taken into account in determining a temporary substantial business hardship include whether the employer is operating at an economic loss, there is substantial unemployment or underemployment in the trade or business and in the industry concerned, the sales and profits of the industry concerned are depressed or declining, and it is reasonable to expect that the plan will be continued only if the waiver is granted.

Taxpayer was experiencing a temporary substantial business hardship due to servicing of debt associated with required infrastructure upgrades, supply chain interruptions, labor shortages, excessive inflation, and high interest rates. Taxpayer has implemented a series of actions to sell underused assets, cut costs, and facilitate its long-term improvement, and its financial projections illustrate that its cash flows will improve adequately to satisfy the Plans' funding obligation in the near future.

Based on the facts as represented by Taxpayer, the legal standard for a "temporary substantial business hardship" pursuant to section 412(c) has been met.

Section 412(c)(7) of the Code and section 302(c)(7) of ERISA describe the consequences that result in the event the Plans are amended to increase benefits, change the accrual of benefits, or change the rate of vesting, while any portion of the waived funding deficiency remains unamortized. Any amendment to a profit sharing plan or any other retirement plan (covering employees covered by either of the Plans) maintained by Taxpayer, to increase (or any action by Taxpayer or its authorized agents or designees, such as a Board of Directors or Board of Trustees, that has the effect of increasing) the liabilities of either of the Plans is considered an amendment for purposes of section 412(c) of the Code and section 302(c)(7) of ERISA. Similarly, the establishment of a new profit-sharing plan or any other retirement plan by Taxpayer (covering employees covered by either of the Plans) is considered an amendment for purposes of section 412(c)(7) of the Code and section 302(c)(7) of ERISA.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2024-1, § 7.01(16)(b). This office has not verified any of the material submitted in support of the request for ruling, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2024-1, § 11.05.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences or other consequences of any aspect of any transaction or item discussed or referenced in this letter.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Jason Levine  
Branch Chief, Qualified Plans Branch 1  
Office of Associate Chief Counsel  
(Employee Benefits, Exempt Organizations, and  
Employment Taxes)

Cc-: