

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **202443017**

Release Date: 10/25/2024

Index Number: 401.00-00, 401.27-00

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:EEE:EB:QP3  
PLR-125153-23

Date:  
July 08, 2024

Taxpayer =  
Retirement Plan A =  
  
Retirement Plan A's =  
  
401(h) Account  
Date 1 =  
Year 1 =  
Year 2 =  
Year 3 =  
Year 4 =  
Year 5 =  
Year 6 =  
Amount 1 =  
Amount 2 =  
Amount 3 =

Dear :

This is in response to your letter dated December 28, 2023, as supplemented by information dated March 5, 2024, submitted on your behalf by your authorized representative, in which you request a ruling regarding whether a contribution to a retiree medical account under section 401(h) of the Internal Revenue Code ("Code")

meets the subordination requirement described in section 401(h)(1) and § 1.401-14(c)(1).

The following facts and representations have been submitted under penalty of perjury in support of the rulings requested:

### Facts

Taxpayer maintains a pension plan (Retirement Plan A), that was established in Year 1 and received its most recent favorable determination letter on Date 1. Retirement Plan A maintains a retiree medical account described in section 401(h) (Retirement Plan A's 401(h) Account).<sup>1</sup>

Taxpayer represents that Retirement Plan A's 401(h) Account was established and funded in Year 2. Taxpayer further represents that no section 420 transfers were made to Retirement Plan A's 401(h) Account, and Retirement Plan A has never permitted employee contributions.

The terms of Retirement Plan A's 401(h) Account provide that the postretirement medical benefits provided by Retirement Plan A's 401(h) Account are required to be subordinate to the retirement benefits provided by Retirement Plan A.

Taxpayer represents that it made its most recent contribution to Retirement Plan A's 401(h) Account in Year 3, for Amount 1. The contribution of Amount 1 to Retirement Plan A's 401(h) Account corresponded to the contributions to Retirement Plan A for Year 3, Year 4, Year 5 and Year 6. Taxpayer is proposing to make an additional contribution to Retirement Plan A's 401(h) Account of Amount 2, also corresponding to contributions made to Retirement Plan A for Year 3, Year 4, Year 5 and Year 6. Taxpayer represents that for Year 3, Year 4, Year 5 and Year 6, it made contributions to Retirement Plan A that totaled a combined amount of Amount 3.

Taxpayer represents that for each of Year 3, Year 4, Year 5 and Year 6, Taxpayer's minimum required contribution (as defined in section 430(a)(2)) with respect to Retirement Plan A was comprised only of its target normal cost, and that the amortization of funding shortfall was \$0 because the actuarial value of plan assets (including the carryover balance) was greater than the funding target liability.

### Ruling Requested

Taxpayer requests a ruling that the postretirement benefits provided by Retirement Plan A's 401(h) Account will be subordinate to the retirement benefits of Retirement Plan A because the combined contributions of Amount 1 and Amount 2 to Retirement Plan A's 401(h) Account do not exceed 25% of the total contributions to Retirement Plan A and

---

<sup>1</sup>References to Retirement Plan A refer to the non-401(h) portion of the pension plan.

Retirement Plan A's 401(h) Account (for Year 3, Year 4, Year 5 and Year 6) other than contributions to fund past service credits.

### Law

Section 401(a) describes requirements for a qualified trust that is created or organized in the United States and forms part of a pension plan of an employer that is for the exclusive benefit of the employer's employees or their beneficiaries. Section 501(a) provides in pertinent part that an organization described in section 401(a) generally is exempt from income tax.

In pertinent part, section 401(h) provides that, under regulations prescribed by the Secretary, and subject to the provisions of section 420, a pension or annuity plan may provide for the payment of benefits for sickness, accident, hospitalization, and medical expenses of retired employees, their spouses and their dependents, but only if the requirements of section 401(h)(1) – (6) are met. Section 401(h)(1) generally provides that 401(h) benefits must be subordinate to the retirement benefits provided by the plan.

Section 1.401-14(c)(1)(i) provides that the medical benefits described in section 401(h) are considered subordinate to the retirement benefits if at all times the aggregate of contributions (made after the date on which the plan first includes such medical benefits) to provide such medical benefits and any life insurance protection does not exceed 25 percent of the aggregate contributions (made after such date) other than contributions to fund past service credits.

Section 430 generally provides the requirements related to minimum funding standards for single-employer pension plans. Section 430 was added by the Pension Protection Act of 2006 (PPA).

Section 430(a) provides that a plan's minimum required contribution for a plan year is determined under one of two rules, depending on whether the value of plan assets (as reduced by the plan's prefunding balance and funding standard carryover balance) is (1) less than, or (2) equal to or greater than, the plan's funding target.

Section 430(a)(1) provides that in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) is less than the funding target of the plan for the plan year, the plan's minimum required contribution means the sum of-

- (A) The target normal cost of the plan for the plan year
- (B) The shortfall amortization charge (if any) for the plan for the plan year determined under subsection (c), and
- (C) The waiver amortization charge (if any) for the plan for the plan year as determined under subsection (e).

Section 430(a)(2) provides that in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) equals or exceeds the funding target of the plan for the plan year, the minimum required contribution for a plan year is equal to the target normal cost of the plan for the plan year reduced (but not below zero) by such excess.

Section 430(b)(1) provides that except with respect to plans in at-risk status, the term “target normal cost” means, for any plan year, the excess of-

(A) The sum of-

(i) the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year, plus

(ii) the amount of plan-related expenses expected to be paid from plan assets during the plan year, over

(B) The amount of mandatory employee contributions expected to be made during the plan year.

Section 430(d)(1) provides that except as provided in section 430(i)(1) with respect to plans in at-risk status, the funding target of a plan for a plan year is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.

### Analysis

In Year 3, Year 4, Year 5 and Year 6, the value of Retirement Plan A’s assets exceeded the funding target for each plan year. Accordingly, under section 430(a)(2), Taxpayer’s minimum required contribution (for Year 3, Year 4, Year 5 and Year 6) with respect to Retirement Plan A was equal to the target normal cost for the relevant plan year.

Under section 430(b)(1), the plan’s target normal cost with respect to Year 3, Year 4, Year 5 and Year 6 was the present value of all benefits under Retirement Plan A that were expected to accrue under the relevant plan year and the amount of plan-related expenses expected to be paid from plan assets during the plan year. Retirement Plan A has never permitted mandatory employee contributions.

Under section 430(d)(1), Taxpayer’s funding target for Year 3, Year 4, Year 5 and Year 6 with respect to Retirement Plan A was the present value of all benefits accrued or earned under Retirement Plan A as of the beginning of the relevant plan year. The value of Retirement Plan A’s assets exceeded the funding target as of the valuation date for each of Year 3, Year 4, Year 5 and Year 6. For purposes of section 401(h), the present value of all benefits expected to accrue during those plan years is not treated as relating to benefits earned prior to the respective valuation dates in those years. As

such, the contribution of Amount 3 to Retirement Plan A is not treated as including amounts used to fund past service credits.

Applying § 1.401-14(c)(1)(i), because the contribution of Amount 3 to Retirement Plan A does not include amounts that are used to fund past service credits, the entirety of Amount 3 is taken into account in determining whether the contributions of Amount 1 and Amount 2 to Retirement Plan A's 401(h) Account do not exceed 25% of the sum of contributions of Amount 1 and Amount 2 to Retirement Plan A's 401(h) Account and the contribution of Amount 3 to Retirement Plan A.

### Ruling

We conclude that the postretirement benefits provided by Retirement Plan A's 401(h) Account will be subordinate to the retirement benefits of Retirement Plan A because the combined contributions of Amount 1 and Amount 2 to Retirement Plan A's 401(h) Account do not exceed 25% of the total contributions to Retirement Plan A and Retirement Plan A's 401(h) Account (for Year 3, Year 4, Year 5 and Year 6) other than contributions to fund past service credits.

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, 2024 1 IRB 1, § 7.01(16)(b). This office has not verified any of the material submitted in support of the request for rulings, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply 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.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) 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,

/s Jeremy Lamb

---

Jeremy Lamb  
Senior Counsel  
Qualified Plans Branch 2  
Office of Associate Chief Counsel  
(Employee Benefits, Exempt  
Organizations, and Employment Taxes)

cc: