



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

JUN 25 2012

Re: \_\_\_\_\_ ("Plan")  
EIN: \_\_\_\_\_  
Trustees: \_\_\_\_\_  
Union: \_\_\_\_\_  
Proposed Amendment: \_\_\_\_\_

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

This letter constitutes notice that section 412(f)(1) of the Internal Revenue Code (Code), and section 304(b)(1) of the Employee Retirement Income Security Act of 1974, (ERISA) (both prior to amendment by the Pension Protection Act of 2006 (PPA '06)) do not apply to the Proposed Amendment with respect to the Plan.

In granting this approval, we have considered only the reasonableness of the amendment and its impact on Plan liabilities. Accordingly, we are not expressing any opinion as to the accuracy or acceptability of any calculations or other material submitted with your request.

All following references to the Code and ERISA refer to the Code and ERISA prior to amendment by PPA '06. Section 412(f)(1) of the Code and section 304(b)(1) of ERISA provide that if an extension of time under section 412(e) of the Code and section 304(a) of ERISA is in effect with respect to a plan that is amended to increase the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable, such extension shall not apply to any plan year ending on or after the date on which such amendment is adopted.

Section 412(f)(2)(A) of the Code and section 304(b)(2)(A) of ERISA provide that section 412(f)(1) of the Code and section 304(b)(1) of ERISA shall not apply to any plan amendment which the Secretary of the Treasury determines to be reasonable and which provides only de minimis increases in the liabilities of the plan.

An extension of the amortization periods for amortizing the unfunded liabilities of the plan as of July 1, 2003, was granted by a letter ruling dated August 2, 2006, in accordance with section 412(e) of the Code and section 304(a) of ERISA.

The Plan is a defined benefit plan that is also a multiemployer plan as defined under section 414(f) of the Code and was effective July 1, 1957. The Plan covers employees of employers who have signed collective bargaining agreements with the Union. In addition, employees of the Union and the Union's Health and Welfare Fund (a welfare benefit plan affiliated with the Plan) are included as Plan participants.

The Trustees represent that the Proposed Amendment is desired due to a shortage of qualified union personnel in the industry in the Plan's geographic area. The Proposed Amendment, to be effective as of July 1, 2007, would increase the future benefit service accruals by prospectively eliminating the suspension of benefit payments to certain Plan participants. Specifically, under the Proposed Amendment the pension benefit payable to a pensioner between the ages of 55 and 62 shall no longer be permanently suspended for each calendar month in which such pensioner works one (1) or more hours of service, including self employment, in (1) the food industry; and (2) an occupation in which the pensioner was employed at any time under the Plan; and (3) the geographic area covered by the Plan at the time payment of benefits to the pensioner commences. The Proposed Amendment allows a small group of specially trained older workers to continue working past attainment of age 62 or retire and later return to work without forfeiting retirement benefits.

Whether or not the increase in the Plan liabilities due to the Proposed Amendment is de minimis may be evaluated by its impact on the projected future funded status of the Plan as well as its immediate impact on the liability of the Plan. The Trustees have represented that the Plan's funding ratio is expected to increase from 67.6% as of July 1, 2007, to 77.6% as of July 1, 2016, prior to the impact of the Proposed Amendment. Reflecting the impact of the Proposed Amendment, the Plan's funding ratio is expected to be 77.2% as of July 1, 2016. Also, the Plan's accrued liability measured on July 1, 2007, is expected to increase by 0.34% due to the impact of the Proposed Amendment.

Based on the information submitted, the Proposed Amendment is reasonable because it increases the available number of specially trained workers in the Plan's geographic area at a time when there is a shortage of workers with these skills. It also provides only a de minimis increase in the Plan's liabilities because the Plan's accrued liability as of July 1, 2007, increases by only 0.34% due to the Proposed Amendment and the

funding ratio is projected to continue to increase into the future with the overall funding ratio projected to be reduced by only 0.04 percentage points as of July 1, 2016, due to the Proposed Amendment.

Accordingly based on the information submitted, as allowed under section 412(f)(2)(A) of the Code and section 304(b)(2)(A) of ERISA, the Proposed Amendment is reasonable and provides only a de minimis increase in plan liabilities, hence section 412(f)(1) of the Code and section 304(b)(1) of ERISA do not apply to the Proposed Amendment and the Proposed Amendment may be implemented without affecting the extension of time to amortize the unfunded liabilities previously granted by the Service.

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

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

If you have any questions regarding this matter, please contact  
(ID#            ) at (    )

Sincerely yours,



David M. Ziegler, Manager  
Employee Plans Actuarial Group 2

cc: