

**Internal Revenue Service**

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**Department of the Treasury**

**Washington, DC 20224**

**Third Party Communication: None**

**Date of Communication: Not Applicable**

**Person To Contact:**

**Telephone Number:**

**Refer Reply To:**

**CC:TEGE:EB:HW**

**PLR-T-103505-15**

**Date:**

**March 30, 2015**

**Legend:**

**Taxpayer =**

**Trust =**

**Plan =**

**Year 1 =**

**Year 2 =**

**Date X =**

**Dear :**

This responds to your letter dated December 23, 2014, and subsequent correspondence, requesting a ruling regarding the tax consequences under section 4976 of the Internal Revenue Code (Code) of the termination of Trust and the distribution of Trust assets to participants.

Taxpayer represents that it is exempt from federal income tax as an organization described in section 501(c)(12) of the Code. Taxpayer established Trust in Year 1 and Plan in Year 2. Taxpayer represents that Trust is a voluntary employees' beneficiary association under section 501(c)(9). Trust holds assets that are used to provide medical benefits to eligible retirees and their dependents in accordance with the terms of Plan. Taxpayer represents that it has contributed to Trust since Year 1 and that it treated all contributions to Trust as contributions to a welfare benefit fund within the meaning of section 419(e) of the Code. Taxpayer further represents that it has never taken a deduction under section 419 for any contributions to Trust.

Taxpayer will dissolve completely by Date X. Taxpayer proposes that, in connection with its dissolution and after payment of all administrative expenses of Plan and Trust and existing claims of Plan, Trust assets will be distributed as taxable lump sum payments among the participants (retirees and dependents).

### **RULING REQUESTED**

Taxpayer has requested a ruling that neither the termination of Trust in connection with the dissolution of Taxpayer, nor the distribution of Trust assets as taxable lump sum payments to participants, will cause a reversion to Taxpayer within the meaning of section 4976(b)(1)(C) of the Code that is subject to the excise tax under section 4976(a).

### **LAW**

Section 4976(a) of the Code imposes a 100 percent excise tax if an employer maintains a welfare benefit fund and there is a disqualified benefit provided during any taxable year.

Section 4976(b)(1)(C) defines "disqualified benefit" to include any portion of a welfare benefit fund reverting to the benefit of the employer.

Section 4976(b)(3) provides an exception for nondeductible contributions. Specifically, section 4976(b)(3) provides that section 4976(b)(1)(C) does not apply to any amount attributable to a contribution to the fund which is not allowable as a deduction under section 419 for the taxable year or any prior taxable year (and such contribution will not be included in any carryover under section 419(d)).

### **ANALYSIS AND CONCLUSION**

Taxpayer represents that it is exempt from federal income tax as an organization described in section 501(c)(12) of the Code. As a tax-exempt entity described in section 501(c)(12), the contributions Taxpayer made to Trust generally would not have been allowable as a deduction under section 419. Further, Taxpayer represents that it did not deduct any contributions to Trust under section 419. Under section 4976(b)(3), section 4976(b)(1)(C) does not apply to amounts attributable to contributions to a fund that were not allowable as a deduction under section 419. Consequently, neither the termination of Trust in connection with the dissolution of Taxpayer, nor the distribution of Trust assets as taxable lump sum payments to participants, will result in a "disqualified benefit" within the meaning of section 4976(b)(1)(C), and will not, in and of itself, cause Taxpayer to be liable for the excise tax imposed by section 4976.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax 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.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Janet A. Laufer  
Senior Technician Reviewer  
Health & Welfare Branch  
Office of Associate Chief Counsel  
(Tax Exempt & Government Entities)

cc: