

Washington, DC 20548

Significant Index Number. 403 04-01

Product Name

Service Number

TEP:RA:1

MAR 20 2001

Attn:

Legend:

Employer A =

Plan x =

Dear

This is in response to a ruling request dated November 11, 1999, from your authorized representative concerning an arrangement described under section 403(b) of the internal Revenue Code ("Code").

The following facts and representations have been submitted on your behalf:

Employer A is an organization described in Code section 501(c)(3) whose purpose is to develop and implement projects and programs for the benefit of senior citizens. The employer's programs relate to the economic social, health, and nutrition, housing, transportation, employment, education, recreation and other problems unique to senior citizens. Since June 1, 1995, Employer A has maintained Plan X, an arrangement described under Code section 403(b). It allows for deferrals and provides an employer matching contribution.

Employer A represents that it qualifies as a health and welfare service agency within the meaning of Code section 402(g)(8)(B). The Employer proposes to allow those employees with at least 15 years of service to make certain "catch-up" contributions under Code section 402(g). Since Employer A is a tax-exempt organization and cannot offer its employees a competitive salary with the private-sector market place, the

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Employer is pursuing the availability of these catch-up contributions in order to retain its long-service employees. Previously, Employer A has not allowed these catch-up contributions to be made. Plan X provides for the limit under Code section 402(g)(l) and the catch-up under Code section 402(g)(8).

Based on the foregoing facts and representations, you **have requested the following ruling:**

That because Employer A is a health and welfare service agency, catch-up contributions under Code section 402(g)(8) are available under Plan X to those employees with at least 15 years of service with the employer.

Under Code section 402(g)(l), the ~~general~~ limit on elective deferrals for the taxable year is \$7,000, adjusted for COLAs (for the year 2000, it is 310,500). Code section 402(g)(8)(A) provides that in the case of a qualified employee of a qualified organization, the limitation of paragraph (1) with respect to elective deferrals made under a 403(b) annuity contract, shall be increased by whichever of the following is the least: (i) \$3,000, (ii) \$15,000 reduced by amounts not included in gross income for prior taxable years by reason of this paragraph, or (iii) the excess of \$5,000 multiplied by the number of years of service of the employee with the qualified organization over such elective deferrals made by the organization on behalf of such employee for prior taxable years.

Code section 402(g)(8)(B) defines the term "qualified organization" to mean any educational organization, hospital, home health service **agency**, health and welfare service agency, church, or ~~convention~~ or association of churches. ~~Paragraph~~ (C) of this section defines the term "qualified employee" to mean any employee who has completed 15 years of service with the qualified organization.

Based on the foregoing, we conclude, provided Employer A is a health and welfare service agency, Plan X may permit catch-up contributions under Code section 402(g)(8) to those employees who have completed at least 15 years of service with Employer A. This ruling is effective for plan years beginning after December 31, 1999.

This ruling is based upon your representation that Employer A is a health and welfare service agency and does not address whether Employer A is such an organization.

This ruling assumes that Plan X is a plan described in Code section 403(b) and that the contributions subject to the catch-up under Code section 402(g)(8) are elective deferrals within the meaning of Code section 402(g).

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

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

Sincerely yours,



Manager, Employee Plans  
Technical Group 1  
Tax Exempt and Government  
Entities Division

Enclosures:  
Deleted Copy of the Ruling  
Notice 437

cc:

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