

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Number: **200035012**

Telephone Number:

Release Date: 9/1/2000

Refer Reply To:

CC:TEGE:EOEG:ET2-SPR-107767-00

Date:

May 25, 2000

Legend

Company =

Plan =

Dear

On January 11, 1999, the Internal Revenue Service issued letter ruling 199916011 (PLR-105270-98) to the Company. The purpose of this letter is to inform you that letter ruling 199916011 is being reconsidered and, consequently, that the conclusions set forth therein may no longer be relied on.

Letter ruling 199916011 concluded that the Plan satisfied the requirements of section 62(c) of the Internal Revenue Code and that amounts paid under the Plan could be treated as paid under a reimbursement or other expense allowance arrangement in accordance with section 62(a)(2)(A). The Service is reconsidering the circumstances under which the concurrent adoption of a salary reduction arrangement and a reimbursement or other expense allowance arrangement constitutes, in substance, a recharacterization of wages that is not permitted under section 62(c).

Unless it was part of a closing agreement a letter ruling found not to be in accord with the current views of the Service may be revoked or modified. The revocation may be effected by a notice to the taxpayer to whom the letter ruling was originally issued. If a letter ruling is revoked the revocation applies to all years open under the statute of limitations unless the Service uses its discretionary authority under section 7805(b) to limit the retroactive effect of the revocation. Section 12.04 of Rev. Proc. 2000-1, 2000-1 I.R.B. 46 (January 3, 2000); see also sections 601.201(l)(1) and (4) of the statement of Procedural Regulations.

If a letter ruling is issued covering a continuing action or series of actions and the letter ruling is later found not to be in accord with the position of the Service, the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) ordinarily will limit the retroactive effect of the revocation to a date that is not earlier than

that on which the letter ruling is revoked. A taxpayer to whom a letter ruling has been issued may request that the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) limit the retroactive effect of any revocation. A request to limit the retroactive effect of the revocation must be in the general form of, and meet the general requirements for, a letter ruling request. See section 12.11 of Rev. Proc. 2000-1, 2000-1 I.R.B. 46 (January 3, 2000).

If the Company wishes to oppose the revocation of letter ruling 1999916011 a written statement explaining the Company's reasons and arguments (including any supporting documentation) must be submitted to the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) on or before June 30, 2000. In the absence of a written submission by the Company on or before June 30, 2000, letter ruling 1999916011 will be revoked as of that date. A request to limit the retroactive effect of such revocation may be made in accordance with section 12.11 of revenue procedure 2000-1.

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

You must attach a copy of this letter ruling to any tax return to which it is relevant. We enclose a copy for that purpose.

Sincerely,
MARY OPPENHEIMER
Assistant Chief Counsel
(Exempt Organization/Employment Tax/
Government Entities)