

Congress of the United States

Washington, DC 20515

October 9, 2007

The Honorable Henry M. Paulson, Jr.
Secretary of the Treasury
Main Treasury Building, Room 3330
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Paulson:

We are writing today to express great concern regarding a position being taken by the Internal Revenue Service that may be detrimental to pension plan participants and employers.

In the Pension Protection Act (the "PPA"), Congress clarified many key issues related to hybrid defined benefit plans, such as cash balance plans. The PPA also established important participant protections applicable to hybrid plans.

One issue that the PPA did not address was how conversions should have been structured in the past. Of the many conversion methods used, one of the most pro-participant methods was to provide participants, on either a permanent or temporary basis, with the greater of the benefit determined under the old traditional formula or the benefit determined under the new hybrid formula. This "greater of" approach is even more favorable than providing employees with a choice between the two formulas. Unlike employees who might make a choice that turns out to be less advantageous based on unexpected events (such as a different than expected date of termination of employment), employees automatically receive the benefit under the formula that is better for them in a "greater of" conversion.

The PPA neither mandated nor prohibited specific conversion methods. It has come to our attention, however, that the Internal Revenue Service is now interpreting prior and current law regarding backloading to prohibit "greater of" conversion methods. And we further understand that the Service may soon be ruling adversely on the qualification of plans that used a "greater of" approach.

We strongly believe that "greater of" conversions are permissible under the law. This view is also consistent with proposed regulations issued by the Service in 2002 (and later withdrawn for other reasons), which actually encouraged the adoption of "greater of" formulas by providing more favorable treatment under the age discrimination rules to plans using "greater of" formulas. Accordingly, we urge the Service to reverse its current position. And we ask that the Service cease all adverse enforcement activities with respect to this issue.

Very quick action is needed on this issue. The Service's position may already be having adverse effects. Employers that might otherwise be considering pro-participant "greater of" formulas may well find themselves compelled to look at benefit formulas that are less favorable for participants. Companies with existing "greater of" formulas may be forced to consider ending the "greater of" formula in order to avoid potential liabilities raised by the Service's position. And for

some companies that have been resisting the pressure to freeze their plan like so many others have done, this may be the final factor that pushes them to freeze.

The Service's position is not consistent with Congressional intent, present law, or the best interests of participants, employers, and plans. We urge you to quickly reverse this position.

We thank you for your consideration of our request.

Sincerely,

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Listed names of signatories as they appear on the signature pages.

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