

Nonenforcement Policy—Proposed Class Exemption

Announcement 96-15

The Department of Labor (“DOL”) today announced a Pension Payback Program (“Program”). As part of the Program, DOL also today published a notice of proposed class exemption (Application No. D-10218) for prohibited transactions that may have arisen under section 4975 of the Internal Revenue Code (the “Code”) as a result of an employer’s failure to transfer certain employee benefit contributions to its employee benefit plan within the time frames mandated by section 2510.3-102 of DOL’s regulations.

The proposed class exemption will exempt from the Code section 4975 excise taxes corrective payments restored to the plan between the date of DOL’s announcement and September 7, 1996. Accordingly, the Internal Revenue Service will not seek to impose the Code section 4975(a) and (b) sanctions with respect to any prohibited transaction that is covered by the proposed class exemption, notwithstanding any subsequent changes to the proposed class exemption when it is finalized, provided that all requirements specified in the proposed class exemption with respect to the prohibited transaction have been met. For example, DOL must receive, in accordance with condition (6) of the Program, the required certification of compliance with all terms and conditions of the Program not later than September 7, 1996.

A corrective payment made to restore a delinquent contribution to which the Program applies will not be considered an annual addition with respect to the limitation year in which the corrective payment is made. To the extent the corrective payment restores a delinquent contribution, the payment will be considered an annual addition for the limitation year in which the contribution was required to have been transferred to the plan.

The principal author of this announcement is Cathy Vohs of the Employee Plans Division. For further information regarding this announcement, please contact the Employee Plans Division’s taxpayer assistance

telephone service between the hours of 1:30 and 4:00 p.m. Eastern time, Monday through Thursday, on (202) 622-6074/6075 or Cathy Vohs on (202) 622-6214 (These telephone numbers are not toll-free numbers).
