

- ing or paying deadline for the issue are maintained in one of the covered counties;
- (iii) The facilities financed with the proceeds of the issue are located in one of the covered counties;
- (iv) The conduit borrower for the issue is located in one of the covered counties;
- (v) The counsel to the issuer or the conduit borrower, or bond counsel for the issue, is located in one of the covered counties;
- (vi) The professional on whom the issuer relies for compliance with the relevant provision of the Code is located in one of the covered counties. For example, the issuer may need to rely on one or more of the following persons in order to comply with the rebate requirement of section 148(f): the bond trustee, a financial advisor or a rebate consultant.

(b) With respect to the requirements under sections 149(e) and 148(f), an affected issuer has an additional 6 months plus 120 days to file Form 8038, Form 8038-G, Form 8038-GC, or Form 8038-T for an issue for which such form is otherwise required to be filed in accordance with an original due date that occurs on or after September 11, 2001, and on or before November 30, 2001. In the case of a Form 8038-T, the Service will not impose a penalty, including any interest portion thereof, under section 148 of the Code, on rebate payments, yield reduction payments and penalties in lieu of rebate that are originally due on or after September 11, 2001, and on or before November 30, 2001, provided such payments are made within 6 months and 120 days of the original due date of the payment. For computation purposes, such payments will be treated as paid on the last day of the computation or spending period to which they relate.

(c) When filing a form described in subsection (b) above, the affected issuer should add the following designation in red ink at the top of the form, "September 11, 2001 – Terrorist Attack, See Announcement 2001–101."

(d) In addition to the relief granted in subsection (b) above, other relief may

also be granted under appropriate circumstances for affected issuers (for example, affected issuers unable to redeem their current refunded issue within 90 days of issuance of the current refunding issue). An affected issuer may request relief by contacting the Tax Exempt Bonds, Outreach, Planning and Review ("TEB OPR") function of Tax Exempt/Government Entities at (202) 283-9798, contact person: Cliff Gannett.

DRAFTING INFORMATION

The principal author of this announcement is Sunita Lough of Tax Exempt Bonds Outreach, Planning and Review of the Office of the Director, Tax Exempt Bonds, Tax Exempt/Government Entities. For further information regarding this announcement or comments as to how additional relief may be provided to affected issuers, contact Sunita Lough at (202) 283-9774 (not a toll-free call).

Filing of Certain Forms 5500

Announcement 2001–103

The Internal Revenue Service (IRS), the Department of Labor's Pension and Welfare Benefits Administration (PWBA), and the Pension Benefit Guaranty Corporation (PBGC) provide relief from certain penalties relating to Forms 5500 for defined benefit and money purchase pension plans that are required to be filed on or before October 15, 2001. This announcement also includes PBGC's statement of relief from penalties relating to premiums, reporting and disclosure, and certifications.

Background

Section 412(a) of the Internal Revenue Code (Code) and § 302(a) of the Employee Retirement Income Security Act of 1974 (ERISA) provide that a plan meets the minimum funding standards of the Code and ERISA for a plan year if the plan does not have an accumulated funding deficiency as of the end of the plan year. Section 412(c)(10) of the Code and § 302(c)(10) of ERISA provide that, for purposes of satisfying the minimum funding requirements of the Code and ERISA, any con-

tributions for a plan year made by an employer by the end of the 8 1/2 month period following the end of such plan year are deemed to have been made on the last day of the plan year.

Section 6058 of the Code and § 104 of ERISA require plan administrators to file an annual return/report of employee benefit plan within a specified period of time after the end of the plan year. The annual return/report of employee benefit plan is Form 5500 and Form 5500-EZ (hereinafter Form 5500). For defined benefit pension plans subject to the minimum funding standard, § 6059 of the Code requires that a periodic report of the actuary be filed with the annual return. Under § 301.6059-1 of the Procedure and Administration Regulations, the periodic report is the Schedule B, which must be signed by an enrolled actuary. In order to properly complete the Schedule B, the enrolled actuary must know whether a contribution for a plan year was made within the period specified by § 412(c)(10) of the Code and § 302(c)(10) of ERISA.

Under section 502(c)(2) of ERISA, a penalty of up to \$1,100 a day may be assessed for each day a plan administrator fails or refuses to file a complete and accurate annual report and accompanying schedules. Similarly, § 6652(e) of the Code imposes a penalty of \$25 a day (up to \$15,000) for not filing returns for certain deferred compensation plans. Section 6692 of the Code imposes a penalty of \$1,000 for not filing an actuarial report described in § 6059. Under § 301.6692-1(a) of the regulations, a failure to provide a material item of information is considered as a failure to file an actuarial report.

Because of the disruption of the financial markets caused by the events of September 11, 2001, many employers have stated they were not able to make required contributions to their pension plans on or before September 15, 2001, to satisfy the minimum funding standards.

Grant of Relief

The IRS, the PWBA, and the PBGC provide the following relief. In the case of a defined benefit or money purchase pension plan with a plan year ending on or after December 27, 2000, and on or

before January 8, 2001, for which a Form 5500 is required to be filed on or before October 15, 2001, plan administrators and plan sponsors will not be treated as failing to file a complete and accurate return/report under § 6058 of the Code or § 104 of ERISA, nor will enrolled actuaries be treated as failing to file an actuarial report that satisfies the requirements of § 6059(b) of the Code, solely because contributions made on or before September 24, 2001, are included on line 3 of Schedule B of Form 5500 (showing the actual date of payment of the contribution) and line 6(b) of Schedule R of Form 5500.

In addition, the PBGC provides the following relief with respect to any plan with a plan year ending on or after December 27, 2000, and on or before January 8, 2001. The PBGC will not assess any penalties for a failure to pay PBGC premiums in a timely manner or a failure to meet a PBGC reporting or disclosure requirement, nor will it treat a certification as failing to be a valid and correct certification, solely because contributions made on or before September 24, 2001, are included in the plan's assets for purposes of PBGC premiums or are counted for purposes of determining whether any PBGC reporting or disclosure requirement applies.

Drafting Information

The principal author of this announcement is James E. Holland, Jr. of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this announcement, please contact the Employee Plans' taxpayer assistance telephone service at 1-877-829-5500, between the hours of 8:00 a.m. and 9:30 p.m. Eastern Time, Monday through Friday (toll-free number). Mr. Holland may be reached at (202) 283-9699 (not a toll-free number).

Issuance of GUST Opinion Letters for Master and Prototype Plans

Announcement 2001-104

The Service has begun to issue opinion letters to sponsors of master and prototype (M&P) plans who applied for

GUST¹ opinion letters by December 31, 2000. Recently, the Service completed revisions to pertinent sections of the Listing of Required Modifications and Information Package (LRM) for both defined contribution and defined benefit plans. The revisions to the LRMs are posted to the Employee Plans Internet address at www.irs.gov/ep.

Generally, an employer who, by the end of the 2001 plan year (December 31, 2001, for calendar-year plans), either adopts or certifies its intent to adopt a timely submitted M&P plan or volume submitter specimen plan will have until the later of December 31, 2002, or 12 months after the date of the last opinion or advisory letter issued to the M&P plan sponsor or volume submitter practitioner to adopt the GUST-approved plan. An M&P plan or volume submitter specimen plan is timely submitted if an application for a GUST opinion or advisory letter for the plan was filed by December 31, 2000. An employer who does not so adopt or certify its intent to adopt a timely submitted M&P plan or volume submitter specimen plan must amend its plan for GUST by the end of the 2001 plan year.

As provided in Announcement 2001-77 (2001-30 I.R.B. 83), the Service will soon publish on the IRS Web-page a list of the M&P plans and volume submitter specimen plans that were timely submitted for GUST opinion and advisory letters. This list will be updated periodically to indicate the dates on which letters were issued or the applications were withdrawn. The Service expects to complete the issuance of GUST opinion and advisory letters in the first quarter of calendar year 2002.

More information about GUST deadlines and filing procedures can be found in the following IRS procedures: Rev. Proc. 2000-20 (2000-6 I.R.B. 553), Rev. Proc. 2000-27 (2000-26 I.R.B. 1272), Rev. Proc. 2001-6 (2001-1 I.R.B. 194), and Notice 2001-42 (2001-30 I.R.B. 70).

¹ The term "GUST" refers to:

- The Uruguay Round Agreements Act, Pub. L. 103-465;
- The Uniformed Service Employment and Reemployment Rights Act of 1994, Pub. L. 103-353;
- The Small Business Job Protection Act of 1996, Pub. L. 104-188;
- The Taxpayer Relief Act of 1997, Pub. L. 105-34;
- The Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206; and
- The Community Renewal Tax Relief Act of 2000, Pub. L. 106-554 ("CRA").

Foundations Status of Certain Organizations

Announcement 2001-105

The following organizations have failed to establish or have been unable to maintain their status as public charities or as operating foundations. Accordingly, grantors and contributors may not, after this date, rely on previous rulings or designations in the Cumulative List of Organizations (Publication 78), or on the presumption arising from the filing of notices under section 508(b) of the Code. This listing does *not* indicate that the organizations have lost their status as organizations described in section 501(c)(3), eligible to receive deductible contributions.

Former Public Charities. The following organizations (which have been treated as organizations that are not private foundations described in section 509(a) of the Code) are now classified as private foundations:

- 4T Ministry, Inc., San Jose, CA
- 75 Lyerly Residents Council, Incorporated, Houston, TX
- Abundant Rain, Inc., Amarillo, TX
- African Business Group ABG, Dallas, TX
- A.H.S. Enterprises, Inc., Houston, TX
- Akido of Santa Barbara, Santa Barbara, CA
- All Star Kids Day Care, Houston, TX
- Alumni Association of Brooks Institute, Santa Barbara, CA
- American Indian Cultural & Business Council-AICBC, Dallas, TX
- Ancient Eyes Foundation, Oxnard, CA
- Antelope Valley Youth Football Association, Bakersfield, CA
- Apostolate for Catholic Truth and Service, Fresno, CA
- Applied Geography Conferences, Inc., Denton, TX
- Asian-American Association Clothing the Needy, Stockton, CA
- Asthma Watch Advocates Reinforcing and Educating Aware, Lancaster, TX
- Athens-Henderson County Crimestoppers, Malakoff, TX
- Beaumont Federation of Neighborhood Associations, Beaumont, TX
- Believers Bible Fellowship, Inc., Missoula, MT
- Bellerive Residents Council, Incorporated, Houston, TX