

IRS considering return-to-work option of AMO Pension Plan rehabilitation plan

As addressed in the AMO Pension Plan rehabilitation plan — which was posted to the AMO Plans Web site (www.amoplans.com) and distributed via AMO Currents Nov. 13 — the joint union-employer trustees of the American Maritime Officers Pension Plan believe firmly that senior experienced AMO members must remain in their jobs so that they are available to man government-owned and chartered vessels in military sealift operations and national security emergencies.

For this reason — prior to adoption of the rehabilitation plan by the AMO Pension Plan trustees on Friday, Nov. 13 — the trustees asked the Internal Revenue Service to allow certain retired AMO members to return to covered employment at sea with suspension of their monthly retirement benefits while working. If the return-to-work option were to be adopted as part of the rehabilitation plan without IRS approval, the AMO Pension Plan could lose its status as a tax-qualified retirement plan. Below is the application letter from the AMO Pension Plan to the IRS for approval of the return-to-work option, as well as the response of the IRS, which confirms the agency has received the request and will review it as soon as possible.

Courier's Desk
Internal Revenue Service
Attention: SE:T:EP:RA
1111 Constitution Avenue, NW-PE
Washington, DC 20224

Re: American Maritime Officers Pension Plan
EIN: 13-1936709
Request for Letter Ruling

Dear Sir or Madam:

We are hereby requesting that the enclosed Request for Letter Ruling be considered on an expedited basis.

The issue raised in the attached request relates to a Rehabilitation Plan that must be adopted by the Board of Trustees of the taxpayer, the American Maritime Officers Pension Plan (the "Plan"), as a result of the Plan being certified by the Plan's actuary as in critical status effective with the October 1, 2009 plan year. In order to address the Plan's funding status, the Trustees have determined to freeze future benefit accruals effective January 1, 2010, and adopt a Rehabilitation Plan as required under the Pension Protection Act as expeditiously as possible.

Under the provisions of the Pension Protection Act (PPA), 29 U.S.C. §432(e), the Rehabilitation Plan must include a default schedule, which may include the

reduction or elimination of adjustable benefits, including subsidized early retirement benefits. As provided in the PPA, the Trustees will present to the collective bargaining parties a default schedule that will eliminate all subsidized early retirement benefits, including unreduced service pensions. As a result, participants who have sufficient service to retire without a reduction in benefits will no longer be able to do so once the default schedule becomes applicable. It is anticipated that participants who are eligible to retire and receive a reduced service pension, over 300 participants, will elect to retire rather than have to wait until age 65 to receive their full pension benefit.

Due to the uncertainty as to when the default schedule will go into effect, and in order to forestall large numbers of retirements prior to adoption and implementation of the Rehabilitation Plan, the Trustees have decided that elimination of the subsidized service pension will not be implemented until a 60-day notice is given to participants after the effective date of the default schedule. The Trustees would also like to provide as part of the Rehabilitation Plan that eligible participants who retire during this window may then return to employment and have their benefits suspended while working. Without such a provision, it is anticipated that large numbers of participants will retire within 60 days of the effective date of the default schedule. This would result in a drain on Plan assets that could be relieved if participants were allowed to return to work with a suspension of pension payments, and could have a serious impact on the ability of contributing employers to operate their vessels, a risk to the national security of the country. Participants in the Plan are merchant marine officers on U.S. flag vessels who play a vital role in supporting U.S. military operations in Iraq, Afghanistan and worldwide. Without a provision allowing participants who retire during this limited period to return to work, the industry will lose a significant number of its most senior and experienced officers who man the Military Sealift Command Strategic Sealift and Ready Reserve fleets and protect the United States and its allies.

The Board of Trustees will not implement this provision unless it receives a determination from the IRS that such a provision will not result in disqualification of the Plan under Section 401(a) of the Internal Revenue Code, as more fully described in the attached Request for Letter Ruling. Since it is anticipated that the Trustees will adopt a Rehabilitation Plan shortly in order to address the Plan's funding issues, and that negotiations between the collective bargaining parties will commence soon thereafter, the Plan is requesting expedited handling of the enclosed request in order that it may receive a determination prior to the date the default schedule must be implemented.

Thank you for your consideration of this request.

Sincerely,

(s) Joan Ebert Rothermel
Co-Counsel, AMO Pension Plan

Department of the Treasury
Internal Revenue Service
Washington, D.C. 20224

Refer reply to: SE:T:EP:RA:T:A2
Date: October 20, 2009

We have received your request for a private letter ruling. We have noted your request for expedited handling and accordingly will review your submission and process it as soon as possible. If you wish to inquire about the status of your case, please contact the person identified above.

We know your case is important and we will make every effort to process it as expeditiously as possible.