

June 18, 2009

Mr. R. V. Maly, Jr., Vice President - CWA
Mr. R. Middleton, International Representative - IBEW

Gentlemen:

Re: HEART Act / Amendment to the Long Term Savings & Security Plan (LTSSP)

The Heroes Earnings Assistance and Relief Tax (HEART) Act of 2008 applies to sponsors of and participants in qualified defined benefit and defined contribution plans. This law provides additional tax and pension benefits to individuals who are absent from work due to duty in the uniformed military service. Some provisions are effective retroactively to January 1, 2007. Other provisions are first effective for 2009 plan and tax years. In general, plans must be amended to reflect the required provisions of the HEART Act by the last day of the first plan year beginning on or after January 1, 2010.

Pursuant to the statute, the LTSSP is hereby amended in accordance with the following language effective as of the dates indicated herein:

1. Section 2.1(z) – Definitions – Compensation is amended effective January 1, 2009 to include a new Section 2.1(z)(iv) which shall read as follows:

Notwithstanding the preceding anything in the plan to the contrary, Differential Pay shall be included with in the definition of Compensation under the Plan. However, plan contributions of Differential Pay shall be exempt for minimum coverage and nondiscrimination rules.

2. Section 2.1 – Definitions is amended effective with the Plan year commencing after December 31, 2006 to add section 2.1(cccc) which shall read as follows:

Qualified Military Service: The term “qualified military service” means any service in the uniformed services of the United States of America (as defined in chapter [43](#) of title [38](#), United States Code) by any individual if such individual is entitled to reemployment rights upon their return after the completion of such service.

3. Section 2.1 – Definitions is amended effective January 1, 2009 to add section 2.1 (dddd) which shall read as follows:

Differential Pay: The term “differential pay” means any payment the employer makes to an individual who is on active duty in the uniformed services of the United States of America (as defined in chapter 43 of title 38, United States Code) for more than 30 days that represents the difference between their military pay and the wages the individual would have received had he/she not been on active duty with the military.

4. Section 6.3(e) – Full Vesting of Company Matching Contribution Accounts is amended effective with the Plan year commencing after December 31, 2006, to add subsection 6.3(3)(i) which shall read as follows:

(i) if the Participant dies while performing Qualified Military Service as calculated as if the Participant had returned to service the day preceding their death.

5. Article 8 is amended to add Section 8.7 – In-Service Withdrawal while on Qualified Military Service.

Notwithstanding anything in any prior Section of Article 8, a Participant who takes an in-service distribution while on Qualified Military Service shall be suspended from making any additional deferrals to the Plan, either from Military Differential Pay or Regular Pay for a period of six (6) months from the date of the in-service distribution. After the completion of the six (6) month suspension the Participant must affirmatively restart their deferrals in the manner proscribed by the Plan.

Please contact me on 908-582-0600 if you have any questions.

(Original Signed by David Birdsong)

Attachment

Copy to:

L. Grimes-Patow
S. Muscat
W. L. Schecter