

July 1, 1975

Dear :

This is in response to your letter regarding the impact of ERISA on the rights of plan participants who leave employment before retirement age.

Your first question is whether a participant who is 100 percent vested has a right to receive his accrued pension benefits on termination. We don't think so. If the plan provides for payment of benefits at normal retirement age, he must wait until he reaches that age.

Your second question is whether a terminated employee could be treated differently than an employee who voluntarily elects to retire early. We have referred your letter to the Internal Revenue Service to answer this question, as section 206(a)(3) provides for the Secretary of the Treasury to issue regulations governing this situation.

Your third question is whether a terminated employee with a 100 percent vested interest in his accrued benefit would lose it if he dies prior to becoming eligible to receive his first monthly benefit check. The answer depends in part on the plan, in part on his age at death, and in part on whether his surviving spouse has an entitlement to survivor benefits in accordance with section 205 of the Act. If the plan makes no provisions for payment of benefits except to a surviving spouse and he or she dies unmarried and without having made the necessary election, the benefits would be forfeited.

Sincerely,