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December 14, 1975

Dear :

This is in response to your letter concerning the Employee Retirement Income Security Act of 1974 (ERISA). We regret that we were unable to reply to your letter sooner.

You state that your company maintains several profit-sharing plans for the benefit of the employees of various subsidiaries and divisions. These plans generally provide that when an employee leaves the service of the company, except when terminated for cause, his full share in the plan is paid over to him after the close of the plan year in which he leaves if such share is below a certain dollar amount; otherwise, the employee does not receive payment until he reaches retirement age. You ask whether such early payment is permissible under the ERISA or must a one-year break in service elapse first.

Section 206(a) of the ERISA provides than an employee pension benefit plan shall provide that, unless, a participant otherwise elects, the payment of benefits under the plan to participants shall begin not later than the 60th day after the close of the plan year in which (1) the participant attains the earlier age of 65 or the normal retirement age under the plan, (2) the 10th anniversary of the year in which the participant commences participation or (3) the participant terminates his service with the employer, whichever of the three dates is the latest. However, there is nothing in the provisions of the ERISA or the implementing regulations that would prohibit the plan from providing for the payment of benefits at an earlier date, so long as such a provision is applied in a uniform manner. It would not be necessary to wait for a one-year break in service before the payment of benefits.

We hope that this information will be helpful to you. If you have other questions concerning the ERISA, please make further inquiry.

Sincerely,