

April 30, 1976

Dear :

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

You state that, in addition to a profit sharing plan, your organization also maintains an insured arrangement providing life and accident as well as health benefits. The company contributes the entire cost of benefits for employees, and the employees contribute the cost of dependent's coverage through payroll deductions. During a telephone conversation with of my staff on March 12, 1976, you disclosed that the plan covers less than one hundred participants. You ask whether or not such insured arrangement is subject to the provisions of Title I of the ERISA, and, if it is, what are your obligations under the Act.

Such a plan is an "employee welfare benefit plan" as that term is described in section 3(1) of the ERISA and is subject to the reporting and disclosure and fiduciary responsibility requirements of Title I of the Act.

However, section 2520.104-20 of the enclosed regulation that was published in the Federal Register on August 15, 1975, grants a limited exemption to certain employee welfare benefit plans which cover fewer than one hundred participants at all times during a plan year. Included among such plans to which the exemption applies are plans in which the benefits are provided exclusively through insurance contracts or policies issued by an insurance company or similar organization which is qualified to do business in any State, the premiums for which are paid directly by the employer maintaining the plan from its general assets or partly from its general assets and partly from contributions by its employees, provided that contributions by participants are forwarded by the employer within three months of receipt.

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This section of the regulation would be applicable to the welfare benefit arrangement described in your letter, and exempts the plan from certain reporting and disclosure requirements. Please refer to the section 2520.104-20 to determine the conditions of the partial exemption and the remaining responsibilities of the administrator of such a plan with respect to the reporting and disclosure requirements.

Sincerely,