

May 21, 1976

Dear :

This is in reply to your letter dated January 9, 1976, in which you ask us to confirm your interpretation that if the only participants in a pension or profit sharing plan are shareholders or spouses of shareholders, qualified retirement plans need not comply with any of the reporting requirements of the Employee Retirement Income Security Act of 1974 (ERISA).

For purposes of Title I of the ERISA, the term "employee benefit plan" does not include any plan, fund, or program, other than apprenticeship or other training program, under which no employee participants are covered under the plan (section 2510.3-3(b) of the enclosed regulation). According to section 2510.3-3(c) (1), an individual and his or her spouse are not employees with respect to an incorporated business if the business is wholly owned by the individual or by the individual and his or her spouse. Thus, your interpretation is correct only where the stock of the corporation is wholly owned by one shareholder and his or her spouse and the shareholder or the shareholder and his or her spouse are the only participants in the plan.

Sincerely,