

October 1, 1976

Dear :

Thank you for 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.

Your letter relates to an employee welfare benefit plan for one hundred or more participants in which the benefits are funded through various insurance contracts. You tell us that eligibility for benefits is determined by the insurance carriers, and the sole function of the employer is to make premium payments to the insurers from the general corporate funds. You ask whether or not bonding is required for such a plan, and if it is necessary to file an annual report with the Department.

On January 10, 1975, the Department published a temporary bonding regulation in the Federal Register wherein it is stated that, pending the issuance of permanent regulations implementing section 412 of the ERISA, any plan official shall be deemed to be in compliance with the bonding requirements if he or she is bonded under a bond which would have been in compliance with section 13 of the Welfare and Pension Plans Disclosure Act (WPPDA) and Subparts A through E of the regulations implementing the WPPDA (29 CFR Part 464).

Under sections 464.6(b)(2) and 464.7(b)(7) of such regulation, if the employer's contributions to the plan remain unsegregated in the general assets of the employer until used to purchase plan benefits directly from an insurance carrier, then bonding will not be required. However, bonding may be required under certain circumstances where monies are returned to the plan by way of benefit payments, cash surrender, dividends, credits or otherwise. See section 464.7(b)(7).

With respect to the filing of an annual report for the plan, the plan administrator, as defined in section 3(16) of the ERISA, of an insured welfare plan which covers more than one hundred participants must file an annual report for the plan year beginning on or after January 1, 1975.

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The new annual return/report forms to be filed with both the Labor Department and the Internal Revenue Service were available in May. The due date for filing 1975 returns/reports with the Department of Labor is eleven and one-half months after the end of the plan year beginning on or after January 1, 1975, due to the delay in issuing forms. The normal due date for annual/reports will be seven months after the end of the applicable plan year.

Sincerely,