3(2)

February 9, 1977

Dear :

Thank you for your correspondence regarding the Employee Retirement Income Security Act of 1974 (ERISA). We regret the delay in responding to your inquiry.

You state that you represent (named), Inc., a firm that maintains a program under which a discretionary bonus is paid to employees for deposit in their own Individual Retirement Accounts (IRA) established under section 408(a) of the Internal Revenue Code of 1954 (the Code). The bonus amounts are paid directly to the employee who reports them as earnings and forwards them to the trustee who maintains the IRA. You request a determination that this program is exempt from Title I of the ERISA which includes the reporting and disclosure requirements.

Section 2510.3-2(d) of the enclosed regulations issued by the Department of Labor on August 15, 1975, sets forth circumstances under which an IRA established under section 408(a) of the Code will not be deemed a pension plan within the meaning of section 3(2) of the ERISA. If such an account is not deemed a pension plan, it will not be covered under Title I of the ERISA.

As indicated in section 2510.3-2(d), an IRA will not be deemed a pension plan if no contributions are made by the employer, participation is voluntary, the sole involvement of the employer is to permit the sponsor to publicize the program and to collect contributions, and the employer receives no consideration other than reasonable compensation for service rendered.

The involvement of (named), Inc., in the program you describe is limited sufficiently for treatment under section 2510.3-2(d). As the other conditions contained therein are satisfied as well, this program will not be deemed a pension plan and will, therefore, be exempt from Title I of the ERISA.

Sincerely,

Enclosure