

U.S. DEPARTMENT OF LABOR  
LABOR-MANAGEMENT SERVICES ADMINISTRATION  
Pension and Welfare Benefit Programs  
Washington, D.C. 20216



OPINION 80-5A  
4(b)(4)

JAN 25 1980

Mr. H. Herbert Phillips  
Chairman, Employee Benefits Committee  
Northern Telecom Inc.  
International Plaza  
Nashville, Tennessee 37217

Dear Mr. Phillips:

This is in reply to your request for an advisory opinion regarding coverage under title I of the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you ask whether the Business Travel Accident Insurance program (the Plan) of Northern Telecom, Ltd., is exempt from coverage under title I of ERISA by section 4(b)(4). We regret the delay in responding to your inquiry due to the volume of correspondence concerning ERISA.

You advise that the Plan covers employees of Northern Telecom, Ltd., a Canadian corporation, and employees of its subsidiaries, including its United States subsidiary, Northern Telecom, Inc. Of 25,277 employees of Northern Telecom, Ltd., and its subsidiaries, you advise that approximately 1,900 are U.S. citizens while the remainder are nonresident aliens of the United States.

Section 4(b)(4) of ERISA excludes from coverage any plan " ... maintained outside of the United States primarily for the benefit of persons substantially all of whom are nonresident aliens ...."

It is the position of the Department of Labor that, in view of the substantial number of plan participants who are U.S. citizens, the Business Travel Accident Insurance program, an employee welfare benefit plan within the meaning of section 3(1) of ERISA title I, is not maintained primarily for the benefit of persons substantially all of whom are nonresident aliens and is therefore not exempt from ERISA's coverage under section 4(b)(4) of title I. It should be noted that this opinion is applicable only to title I of ERISA.

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, this letter is issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Sincerely,

Ian D. Lanoff  
Administrator of Pension and Welfare Benefit Programs