

Notice 2015-16

MAY 19 2015

**BUSH GOTTLIEB
A Law Corporation**

Joshua Adams
David Adelstein
David E. Ahdoot
Robert A. Bush
Erica Deutsch
Hector De Haro
Julie Gutman Dickinson

500 North Central Avenue
Suite 800
Glendale, California 91203
Telephone (818) 973-3200
Facsimile (818) 973-3201

Peter S. Dickinson+
Ira L. Gottlieb*
Joseph A. Kohanski*
Robert Kropp, Jr.
Kirk M. Prestegard
I Hope J. Singer

* Also admitted in New York
+ Also admitted in Nevada

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VIA REGISTERED E-MAIL

Submitted electronically to:
Notice.comments@irsounsel.treas.gov

Direct Dial No.:
(818) 973-3205
RBush@BushGottlieb.com

CC:PA:LPD:PR (Notice 2015-16)
Room 5203
Internal Revenue Service
PO Box 7604
Ben Franklin Station
Washington D.C. 20044

Re: Notice 2015-16

Dear Ladies and Gentlemen:

These comments with regard to Notice 2015-16 are presented on behalf of three of the largest labor organizations in the entertainment industry: the Directors Guild of America ("DGA"), the International Alliance of Theatrical, Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States ("IATSE"), and the Screen Actors Guild-American Federation of Television and Radio Artists ("SAG-AFTRA"). Each of these Unions is party to collective bargaining agreements that require signatory employers to contribute to multiemployer health plans established pursuant to Section 302(c)(5) of the Labor Management Relations Act ("LMRA").¹ Together, these Plans provide health benefits to over 200,000 participants and their dependents.

Contributions to the Plans are made by employers who are signatory to collective bargaining agreements on behalf of employees working under those agreements. Currently those collective bargaining agreements require employers to contribute to these Plans at combined rates of approximately 7% to 10% of the compensation paid to employees covered by the applicable collective bargaining agreements. Those employers include all of this country's major motion picture and television studios and networks, as well as thousands of other producers of entertainment programs, commercials, and related product for the entertainment industry. The Plans in turn provide comprehensive health care benefits to the employees of these

¹ The multiemployer health plans are the AFTRA Health Fund, Directors Guild of America – Producer Health Plan, the Motion Picture Industry Health Plan, the Screen Actors Guild – Producers Health Plan (collectively, the "Plans").

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companies. The Plans have been providing comprehensive and affordable health care to entertainment industry employees for over five decades.

As required by the LMRA, each of these Plans is governed by a Board of Trustees composed of equal numbers of union-appointed and employer-appointed trustees. Those trustees establish eligibility criteria and a plan of benefits in accordance with the mandate of both the LMRA and ERISA §404(a) that they act strictly for the sole and exclusive benefit of the plan's participants and beneficiaries.

We submit these comments to express our agreement with the comments submitted by the National Coordinating Committee of Multiemployer Plans ("NCCMP") that delineate the key concerns of multiemployer plans in regard to Notice 2015-16. We will not burden the record by repeating each of the points made by the NCCMP in those comments.

However, we do wish to underscore one area that could be could have significantly negative impact on our entertainment industry plans – the possible lack of clarity with respect to the application of mandatory disaggregation rules proposed in Notice 2015-16. As noted by the NCCMP, the Regulations should more clearly state that those mandatory disaggregation rules for self-only coverage and other-than-self-only coverage proposed do not apply to multiemployer plans. This does necessarily follow from the statutory mandate in Section 4980I(b)(3) that "[a]ny coverage provided under a multiemployer plan... shall be treated as coverage other than self-only coverage" and we note that the Notice correctly follows the statute in this regard. Nonetheless, we are concerned that the otherwise mandatory nature of the disaggregation rules could lead to confusion. As noted by the NCCMP, an example of how cost is determined for multiemployer plans would be helpful to avoid any possible confusion.

We appreciate the opportunity to submit comments on this issue.

Very truly yours,

Bush Gottlieb



Robert A. Bush

Counsel for the Directors Guild of America, the International Alliance of Theatrical, Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, and the Screen Actors Guild-American Federation of Television and Radio Artists