

Notice 2015-16

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MOONEY, GREEN, SAINDON, MURPHY & WELCH, P.C.

PETER J. LEFF
pleff@mooneygreen.com

SUITE 100
1920 L STREET, N.W.
WASHINGTON, DC 20036

TELEPHONE (202) 783-0010
FACSIMILE (202) 783-6088
INTERNET: www.mooneygreen.com

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Notice.comments@irs.counsel.treas.gov

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

**Re: Notice 2015-16
Request for Comments**

Dear Department of Treasury and Internal Revenue Service:

Please accept the following Comment on behalf of the Graphic Communications National Health & Welfare Fund ("GCNHWF" or "Fund") in response to the Request for Comments concerning Notice 2015-16 which addresses Section 4980I of the Internal Revenue Code ("Code") – Excise Tax on High Cost Employer-Sponsored Health Coverage.

The GCNHWF is a national, multiemployer Taft-Hartley welfare benefit fund that provides, among other benefits, medical and prescription drug coverage to its participants, and their dependents, who actively work or are retired from working in the printing industry. The GCNHWF is self-insured. There are currently 352 total individuals participating in the GCNHWF's medical plan, consisting of 53 members, 82 spouses and 112 dependent children.

The GCNHWF strongly urges the Department of Treasury to adopt regulations that will apply the age and gender adjustments set forth in Section 4980I(b)(3)(C)(iii) to multiemployer plans based on the characteristics of the participants in the multiemployer plan. There are several reasons for doing so. Initially, the GCNHWF would not have information about the age and gender characteristics of the employer's entire workforce, only about those participants who participate in the Fund. Additionally, the GCNHWF is often one of several options for medical coverage that employees of a particular employer can select. When options are offered to employees, the GCNHWF is typically the high benefit, high cost option for employees. This results in older and sicker employees choosing the GCNHWF medical coverage option, whereas younger and healthier employees choose cheaper medical coverage options offered by the

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employer or another insurance carrier. As a result of older and less healthy employees choosing the GCNHWF medical option, the cost of the medical coverage offered by the GCNHWF is often more expensive than the alternative coverage options offered by the employer. Finally, even for those participating employers that provide their entire unionized workforce with medical coverage from the GCNHWF, they often exclude office staff from participation. The production and maintenance workers that participate in the GCNHWF tend to be older and more typically male than their employer's workforce as a whole. Accordingly, it would be unfair and skew the age and gender characteristics of the GCNHWF, if the age and gender characteristics of each employer participating in the Fund were calculated to adjust the dollar limit thresholds for the excise tax on the GCNHWF.

When looking at the population of the GCNHWF, the average age of members in the Fund is 53 years old. This is considerably higher than the median age of the labor force in the United States. The U.S. Bureau of Labor Statistics calculated the median age of the labor force in the United States in 2012 to be 41.9 years old and projected the median age of the labor force in the United States in 2022 to be 42.6 years old.

http://www.bls.gov/emp/ep_table_306.htm.

The average age of the 82 spouses participating in the Fund is also 53 years old. When the average age of the dependent children participating in the Fund is taken into account, the average participant age drops to 41 years old, but age of spouses and dependent children should not be factored into the average age of the multiemployer plan's workforce because the comparison is to the age of the characteristics of the national workforce. It would unfairly skew a multiemployer plan's age characteristics as compared to the age characteristics of the national workforce if the age of any participants other than the age of the member participants was used to calculate the age characteristics of the multiemployer plan.

Similarly, when calculating the gender characteristics of the multiemployer plan, only the gender of the participants, and not the gender of dependent spouses and children, should be considered. Of the 158 participants in the GCNHWF medical coverage plan, 126 are male (80%) and 32 are female (20%). This compares to a national workforce comprised of 47% women in 2010 and a national workforce projected to be comprised of 51% women between 2008 and 2019. <http://www.dol.gov/wb/factsheets/Qf-laborforce-10.htm>.

The GCNHWF supports the creation of safe harbor tables for this purpose of appropriately and easily adjusting dollar limit thresholds for multiemployer populations with age and gender characteristics that differ from those of the national workforce. Such tables should be updated annually. For the age adjustment, Treasury and the IRS should construct the tables in yearly increments so that a plan would get a higher adjustment on its excise tax for each year that the average age of its member participants is greater than the average age of the national workforce. For example, a plan with an average age of 53 would get a higher adjustment than a plan with an average age of 52. Age of plan participants would be determined as of a specific date (e.g., the last day of the plan year or of the taxable year). The US Bureau of Labor Standards would provide Treasury and the IRS with the average age (or projected average age)

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of the United States workforce on an annual basis.

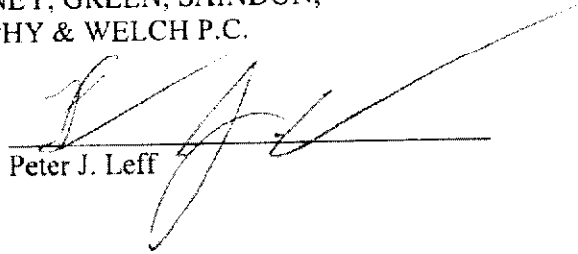
Similarly, for the gender adjustment, Treasury and the IRS should construct the tables in 5% increments so that the plan would get a higher adjustment on its excise tax for every 5% difference in the gender characteristics of its participants compared to the gender characteristics of the national workforce. For example, if the gender characteristics of the national workforce was 50% male and 50% female, a plan whose member participants were 65% male would receive a higher adjustment than a plan whose member participants were 60% male. Gender of plan participants would be determined as of a specific date (e.g., the last day of the plan year or of the taxable year). The US Bureau of Labor Standards would provide Treasury and the IRS with the gender characteristics (or projected gender characteristics) of the United States workforce on an annual basis.

The GCNHWF greatly appreciates the opportunity to comment in advance of rule-making on issues relating to multiemployer plans and the excise tax under § 4980I. Because plan participants will ultimately bear the burden of this tax, it is particularly important that it be implemented fairly so as to reduce needless burdens and in a manner that truly captures the cost of the plan in the context of the age and gender of plan participants. The GCNHWF would be more than happy to discuss any questions you may have regarding these comments and related issues. Thank you for your consideration.

Very truly yours,

MOONEY, GREEN, SAINDON,
MURPHY & WELCH P.C.

By:


Peter J. Leff

cc: Board of Trustees
Robert Lacey, Plan Secretary
Teresa Bauer, Plan Administrator
Beth Queen, Plan Administrator
Norm Kerr, Plan Consultant