

## **NOTICE TO INTERESTED PARTIES**

**1. Notice To All Participants:**

An application is to be made to the Internal Revenue Service for an advance determination on the qualification of the following employee pension benefit plan:

**2. Name of Plan:** Sheet Metal Workers Local 49 Defined Contribution Pension Plan

**3. Plan Number:** 502

**4. Name and Address of Applicant:**

Board of Trustees of the Sheet Metal Workers Local 49 Defined Contribution Pension Plan  
4775 Indian School Road NE, Suite 105  
Albuquerque, NM 87110

**5. Applicant EIN:** 74-2846833

**6. Name and Address of Plan Administrator:**

Board of Trustees of the Sheet Metal Workers Local 49 Defined Contribution Pension Plan  
c/o Southwest Service Administrators  
4775 Indian School Road NE, Suite 105  
Albuquerque, NM 87110

**7.** The application will be filed on **January 26, 2010** for an advance determination as to whether the Plan meets the qualification requirements of section 401 or 403(a) of the Internal Revenue Code of 1986, with respect to the plan's qualification.

The application will be filed with:

EP Determinations  
Internal Revenue Service  
201 West Rivercenter Blvd.  
Attn: Extracting Stop 312  
Covington, KY 41011

**8.** The employees eligible to participate under the plan are those who satisfy age and service requirements (if any) of the plan.

**9.** The Internal Revenue Service has previously issued a determination letter with respect to the qualification of this Plan.

### **RIGHTS OF INTERESTED PARTIES**

**10.** You have the right to submit to EP Determinations, at the above address, either individually or jointly with other interested parties, your comments as to whether this plan meets the qualification requirements of the Internal Revenue Code.

You may instead, individually or jointly with other interested parties, request the Department of Labor to submit, on your behalf, comments to EP Determinations regarding qualification of the plan. If the Department declines to comment on all or some of the matters you raise, you may, individually, or jointly if your request was made to the Department jointly, submit your comments on these matters directly to EP Determinations.

#### **REQUESTS FOR COMMENTS BY THE DEPARTMENT OF LABOR**

11. The Department of Labor may not comment on behalf of interested parties unless requested to do so by the lesser of 10 employees or 10 percent of the employees who qualify as interested parties. The number of persons needed for the Department to comment with respect to this plan is 10. If you request the Department to comment, your request must be in writing and must specify the matters upon which comments are requested, and must also include:

- (1) the information contained in items 2 through 5 of this Notice; and
- (2) the number of persons needed for the Department to comment.

A request to the Department to comment should be addressed as follows:

Deputy Assistant Secretary  
Employee Benefits Security Administration  
ATTN: 3001 Comment Request  
U.S. Department of Labor,  
200 Constitution Avenue, NW  
Washington, DC 20210

#### **COMMENTS TO THE INTERNAL REVENUE SERVICE**

12. Comments submitted by you to EP Determinations must be in writing and received by it by March 12, 2010. However, if there are matters that you request the Department of Labor to comment upon on your behalf, and the Department declines, you may submit comments on these matters to EP Determinations to be received by it within 15 days from the time the Department notifies you that it will not comment on a particular matter, or by March 12, 2010, whichever is later, but not after March 27, 2010. A request to the Department to comment on your behalf must be received by it by February 10, 2010 if you wish to preserve your right to comment on a matter upon which the Department declines to comment, or by February 20, 2010 if you wish to waive that right.

#### **ADDITIONAL INFORMATION**

13. Detailed instructions regarding the requirements for notification of interested parties may be found in sections 17 and 18 of Rev. Proc. 2009-6. Additional information concerning this application (including, where applicable, an updated copy of the plan and related trust; the application for determination; any additional documents dealing with the application that have submitted to the Service; and copies of section 17 of Rev. Proc. 2009-6 are available at the Administrative Office of the Sheet Metal Workers Local 49 Defined Contribution Pension Plan during normal working hours for inspection and copying. (There is a nominal charge for copying and/or mailing.)

**REVENUE PROCEDURE 2009-6 -- SECTION 17**

**SEC. 17. WHAT RIGHTS TO NOTICE AND COMMENT DO INTERESTED PARTIES HAVE?**

Rights of interested parties

.01 Persons who qualify as interested parties under section 1.7476-1(b), have the following rights:

- (1) To receive notice, in accordance with section 18 below, that an application for an advance determination will be filed regarding the qualification of plans described in sections 401, 403(a), 409 and/or 4975(e)(7);
- (2) To submit written comments with respect to the qualification of such plans to the Service;
- (3) To request the Department of Labor to submit a comment to the Service on behalf of the interested parties; and
- (4) To submit written comments to the Service on matters with respect to which the Department of Labor was requested to comment but declined.

Comments by interested parties

.02 Comments submitted by interested parties must be received by EP Determinations by the 45th day after the day on which the application for determination is received by EP Determinations. (However, see sections 17.03 and 17.04 for filing deadlines where the Department of Labor has been requested to comment.) Such comments must be in writing, signed by the interested parties or by an authorized representative of such parties (as provided in section 9.02(11) of Rev. Proc. 2009-4), addressed to EP Determinations at the address in section 6.17, and contain the following information:

- (1) The names of the interested parties making the comments;
- (2) The name and taxpayer identification number of the applicant for a determination;
- (3) The name of the plan, the plan identification number, and the name of the plan administrator;
- (4) Whether the parties submitting the comment are:
  - (a) Employees eligible to participate under the plan,
  - (b) Employees with accrued benefits under the plan, or former employees with vested benefits under the plan,
  - (c) Beneficiaries of deceased former employees who are eligible to receive or are currently receiving benefits under the plan,
  - (d) Employees not eligible to participate under the plan.
- (5) The specific matters raised by the interested parties on the question of whether the plan meets the requirements for qualification involving sections 401 and 403(a), and how such matters relate to the interests of the parties making the comment; and

(6) The address of the interested party submitting the comment (or if a comment is submitted jointly by more than one party, the name and address of a designated representative) to which all correspondence, including a notice of the Service's final determination with respect to qualification, should be sent. (The address designated for notice by the Service will also be used by the Department of Labor in communicating with the parties submitting a request for comment.) The designated representative may be one of the interested parties submitting the comment or an authorized representative. If two or more interested parties submit a single comment and one person is not designated in the comment as the representative for receipt of correspondence, a notice of determination mailed to any interested party who submitted the comment shall be notice to all the interested parties who submitted the comment for purposes of section 7476(b)(5) of the Code.

#### Requests for DOL to submit comments

.03 A request to the Department of Labor to submit to EP Determinations a comment pursuant to section 3001(b)(2) of ERISA must be made in accordance with the following procedures.

(1) The request must be received by the Department of Labor by the 25th day after the day the application for determination is received by EP Determinations. However, if the parties requesting the Department to submit a comment wish to preserve the right to comment to EP Determinations in the event the Department declines to comment, the request must be received by the Department by the 15th day after the day the application for determination is received by EP Determinations.

(2) The request to the Department of Labor to submit a comment to EP Determinations must:

(a) Be in writing;

(b) Be signed as provided in section 17.02 above;

(c) Contain the names of the interested parties requesting the Department to comment and the address of the interested party or designated representative to whom all correspondence with respect to the request should be sent. See also section 17.02(6) above;

(d) Contain the information prescribed in section 17.02(2), (3), (4), (5) and (6) above;

(e) Indicate that the application was or will be submitted to EP Determinations at the address in section 6.17;

(f) Contain a statement of the specific matters upon which the Department's comment is sought, as well as how such matters relate to the interested parties making the request; and

(g) Be addressed as follows:

Deputy Assistant Secretary  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210  
Attention: 3001 Comment Request

#### Right to comment if DOL declines to comment

.04 If a request described in 17.03 is made and the Department of Labor notifies the interested parties making the request that it declines to comment on a matter concerning qualification of the plan which was raised in the request, the parties submitting the request may still submit a comment to EP Determinations on such matter. The comment must be received by the later of the 45th day after the day the application for determination is received by EP Determinations or the 15th day after the day on which notification is given by the Department that it declines to submit a comment on such matter. (See section 17.07 for the date of notification.) In no event may the comment be received later than the 60th day after the day the application for determination was received. Such a comment must comply with the requirements of section 17.02 and include a statement that the comment is being submitted on matters raised in a request to the Department upon which the Department declined to comment.

#### Confidentiality of comments

.05 For rules regarding the confidentiality of contents of written comments submitted by interested parties to the Service pursuant to section 17.02 or 17.04, see section 601.201(o)(5) of the Statement of Procedural Rules.

#### Availability of comments

.06 For rules regarding the availability to the applicant of copies of all comments on the application submitted pursuant to section 17.01(1), (2), (3) and (4) of this revenue procedure, see section 601.201(o)(5) of the Statement of Procedural Rules.

#### When comments are deemed made

.07 An application for an advance determination, a comment to EP Determinations, or a request to the Department of Labor shall be deemed made when it is received by EP Determinations, or the Department. Notification by the Department that it declines to comment shall be deemed given when it is received by the interested party or designated representative. The notice described in section 18.01 below shall be deemed given when it is posted or sent to the person in the manner described in section 1.7476-2. In the case of an application, comment, request, notification, or notice that is sent by mail or a private delivery service that has been designated under section 7502(f), the date as of which it shall be deemed received will be determined under section 7502. However, if such an application, comment, request, notification, or notice is not received within a reasonable period from the date determined under section 7502, the immediately preceding sentence shall not apply.