

February, 05, 2001

Mr. Don Shuper

XXXXXXXXXX



Dear Mr. Shuper:

As you requested, here is a copy of the agreement between the Department of Labor and The Boeing Company resulting from the audit of the Voluntary Investment Plan. The Company continues to disagree with the findings of the Secretary. However, because the operation of the Plan was completely revamped in 1997 and the potential for a similar claim in the future was thereby eliminated, the Company determined it was best to settle this matter and put it behind us in order to focus our resources on the current and future administration of the Plan.

Sincerely,

XXXXXXXXXX

Sr. Manager Employee Savings Plans

12-16-2000

Dear Former VIP Participant:

A recent audit has identified the need for an earnings adjustment to certain Voluntary Investment Plan (VIP) accounts for the period from January 1, 1995 through October 31, 1997. Because you were a VIP participant during that period, you are eligible to receive an earnings adjustment appropriate to the value of your account as of the earlier of October 31, 1997 or the date on which your account balance was distributed. A check for the amount due to you is enclosed.

If you have any questions, please contact the Boeing Savings Plans Office at 206-655-3568.

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TAX?

AGREEMENT

This Agreement, entered into by and between Alexis M. Herman, Secretary of the United States Department of Labor ("Secretary"), and The Boeing Company ("Boeing") shall fully and finally resolve and settle the issues which were raised in the course of the Department's investigation of The Boeing Company Voluntary Investment Plan and which are set forth in the letter dated September 29, 1997 from Leonard L. Garofolo, San Francisco Regional Director, Pension and Welfare Benefits Administration, to Michael A. Cooper of The Boeing Company,

WHEREAS, Boeing sponsored the Voluntary Investment Plan for Salaried Employees and the Voluntary Investment Plan for Hourly Employees, which were merged effective February 1, 1996 into the Boeing Company Voluntary Investment Plan (individually and collectively, "Plan");

WHEREAS, the Plan was funded by a combination of voluntary employee contributions ("participant contributions") and employer matching contributions ("employer contributions"), both of which, pursuant to the Plan's governing documents, were due no later than the first business day of each month following the month in which the participant contributions were withheld from employees' wages;

WHEREAS, under the Plan's governing documents, eligible Plan participants were permitted to borrow against their individual Plan accounts and authorize payroll deductions for the repayment of interest and principal ("participant loan repayments");

WHEREAS, the Secretary conducted an investigation and believes that Boeing was able to estimate, with a high degree of accuracy, the amount of funding due from Boeing to the Plan on the first of each month following the month in which the participant contributions and loan repayments were withheld from wages ("withholding month"), including the amount of participant loan repayments;

WHEREAS, from at least January 1, 1995 through October 31, 1997, the Secretary asserts that Boeing did not pay its entire funding estimates to the Plan by the first of the month following the withholding month, but it reduced its funding paid to the Plan by amounts equal to 50% of its participant loan repayments estimates and made later payments to make up the difference between its funding estimates and the actual amounts due ("residual payments");

WHEREAS, Boeing made its residual payments within 30 days from the first day of the month following the withholding month from at least January 1, 1995 through December 31, 1996, and within 15 business days from the first day of the month following the withholding month from about January 1, 1997 through October 31, 1997;

WHEREAS, the Secretary's position is that from the time periods between the first of the month following the withholding month and the residual payments, the Plan lost the earnings that it would have received on amounts equal to approximately 50% of the participant loan repayment estimates;

WHEREAS, the Secretary's position is that by withholding from the Plan amounts equal to 50% of its loan repayments estimates for the time periods between the first of the month

following the withholding month and the residual payments, Boeing failed to discharge its fiduciary duties in accordance with the Employee Retirement Income Security Act of 1974, as amended (ERISA).

WHEREAS, Boeing asserts that its benefits system did not provide information sufficient to make a complete payment on the first day of the month and that Boeing therefore made an estimated payment in excess of what Boeing believed its obligations to be on or about the first day of the month and then paid the remainder in a residual payment once the proper amount was determined within 30 days from the first day of the month following the withholding month from at least January 1, 1995 through December 31, 1996, and within 15 business days from the first day of the month following the withholding month from about January 1, 1997 through October 31, 1997;

WHEREAS, nothing in this Agreement constitutes a finding of liability by any court;

WHEREAS, in connection with this Agreement Boeing has agreed to pay \$1,770,000.00, which monies shall be allocated, in accordance with the Plan's governing documents and on a pro rata basis approved by the Secretary, as described in this Agreement, to the accounts of or directly to those persons who were participants and beneficiaries of the Plan during the period from January 1, 1995 through the conversion to daily valuation, which occurred in or about October 1997, and the Secretary has agreed not to sue Boeing for violating ERISA in connection with the funding of the Plan as described above for the time period from January 1, 1995 through October 31, 1997;

WHEREAS, the Secretary is required to assess a civil penalty of twenty percent (20%) on amounts recovered under a settlement agreement or court order ("applicable recovery amount"), pursuant to ERISA § 502(1)(2), 29 U.S.C. § 1132(1)(2).

WHEREAS, the Secretary has determined that the applicable recovery amount within the meaning of ERISA § 502(1)(2), 29 U.S.C. § 1132(1)(2), is \$1,770,000.00;

WHEREAS, this Agreement is not binding on any governmental agency other than the United States Department of Labor;

THEREFORE, in consideration of the mutual undertakings and understandings contained in this Agreement, the adequacy of which is expressly acknowledged, the Secretary and Boeing agree as follows:

1. Boeing shall, within one hundred and twenty (120) days of the signing of this Agreement, pay or cause to be paid \$1,770,000.00 plus interest at the 90 day Treasury bill rate (for Treasury bills purchased on the date of the signing of this Agreement) from the date of the signing of this Agreement until the date of payment in accordance with paragraph 2 of this Agreement;

2. No later than one hundred and twenty (120) days from the signing of this Agreement, the amount paid pursuant to paragraph 1 above shall be allocated, in accordance with the Plan's governing documents and on a pro rata basis approved by the Secretary, (1) to the accounts of those persons who were participants and beneficiaries of the Plan during the period from January

1, 1995 through the conversion to daily valuation, which occurred in or about October, 1997, who still participate in the Plan, and who can reasonably be identified; and (2) to those persons who were participants and beneficiaries of the Plan during the period from January 1, 1995 through the conversion to daily valuation, who no longer participate in the Plan, and who can reasonably be identified. The funds to be paid to the former group of persons will be allocated within Plan, and the funds to be paid to the latter group of persons will be paid directly to those persons by mailing a check to their last known address. In order to locate persons in the latter group for whom Boeing lacks a current address, Boeing shall use reasonable efforts to obtain the person's current address. Such efforts shall include furnishing to the Internal Revenue Service all information required to be included by Section 4.06 of the Internal Revenue Service Procedure 94-22 by plan administrators seeking to locate plan participants through use of the Internal Revenue Service's letter forwarding program or such other procedure approved by the Secretary. If Boeing's reasonable efforts to identify, locate and compensate persons in the latter group fail, Boeing is entitled to distribute those funds to the accounts of persons in the former group on a reasonable, proportionate basis approved by the Secretary. Boeing may refrain from providing payment for the benefit of or directly to any person who would receive \$3.00 or less, and, if it chooses to do this, Boeing shall instead reallocate any such funds among the remaining persons to be compensated on a proportionate basis;

3. Boeing shall provide to the Secretary upon request and without a subpoena such documents as the Secretary deems necessary to review and approve the allocation methodology and procedures to satisfy the requirements of paragraph 2 above;

4. Upon payment of the \$1,770,000.00 pursuant to this Agreement, the Secretary, by letter from an authorized representative, shall assess a civil penalty of twenty percent (20%) of the applicable recoverable amount, pursuant to ERISA § 502(1)(2), 29 U.S.C. § 1132(1)(2); said penalty amount will be \$354,000.00;

5. Within sixty (60) business days of receipt of the Secretary's assessment letter, Boeing shall pay said penalty as directed in the letter from the Secretary's authorized representative or file an administrative request for a waiver or reduction of the penalty as provided for under 29 C.F.R. 2570.85. Boeing will abide by the Secretary's decision pursuant to this process.

6. With respect to any action under Title I of ERISA against Boeing in connection with the funding of The Boeing Company Voluntary Investment Plan as described above for the time period from January 1, 1995 through October 31, 1997, the running of the statute of limitations contained in ERISA § 413, 29 U.S.C. § 1113, shall be tolled from June 1, 1999 through and until such time as the Secretary acknowledges in writing through her authorized representative that Boeing has presented sufficient proof that it has satisfied its obligations under paragraphs 1, 2, 3 and 5 of this Agreement. Boeing shall not assert in any manner the defense of statute of limitations, the doctrines of waiver, laches, or estoppel, or any other matter constituting an avoidance of the Secretary's claims that is based on the time within which such action was commenced by the Secretary. This document may be introduced as evidence of tolling in any such action brought by the Secretary against Boeing

7. Not later than two hundred and ten (210) days after the signing of this Agreement, the Secretary's authorized representative shall advise Boeing whether Boeing has presented

sufficient proof that it has materially satisfied its obligations under paragraphs 1, 2, 3 and 5 of this Agreement. If Boeing has presented such proof, the Secretary's authorized representative shall so acknowledge in writing, and all of the Secretary's claims in connection with the funding of the Plan from January 1, 1995 through October 31, 1997, shall be deemed to be fully, finally and completely resolved.

8. No signatory, by executing this Agreement, waives any defense based on the statute of limitations, the doctrines of waiver, laches, or estoppel, or any other matter constituting an avoidance of the Secretary's claims that is based on the time within which such action was commenced by the Secretary that may have arisen prior to the execution of this Agreement.

9. This Agreement is not binding on any governmental agency other than the United States Department of Labor.

10. Nothing in this Agreement constitutes a finding of liability by any court.


11. Each party to this Agreement shall bear its own costs and fees in connection with this matter.

12. Each of the signatories below hereby represents that he or she is authorized and entitled to sign on behalf of each of the parties hereto.

Dated this 17th day of August, 2000

FOR THE BOEING COMPANY:

By:


WILLIAM J. KILBERG, P.C.
Counsel for The Boeing Company


FOR ALEXIS M. HERMAN
Secretary of Labor

HENRY L. SOLANO
Solicitor of Labor

ALLEN H. FELDMAN
Acting Associate Solicitor

RISA D. SANDLER
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By:


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