

## FLSA-650

December 8, 1971

This is in reply to your letter of September 6, 1966, submitted by \*\*\* requesting a ruling on the subject plan.

A review of the plan discloses that none of the following constitute income includable in the regular rate or the basic rate of pay of any employee for the purposes of the Fair Labor Standards Act or the Walsh-Healey Public Contracts Act: (1) the grant of rights under the plan, (2) the receipt of stock pursuant to the exercise of any rights, (3) the income earned on any of the balances in savings accounts established under the plan, and (4) the withdrawal of such income for the purchase of stock or otherwise.

Your attention however, is directed to section 531.32(b) of Regulations, Part 531. As stated in this section, shares of stock in an employer company are not "facilities" within the meaning of section 3(m) of the act, which defines wages as including the reasonable cost or fair value of facilities customarily furnished to employees. Consequently, deductions for purchase of company stock would be in violation of the act in any workweek when such deductions cut into the required statutory minimum or overtime pay. Sections 531.36 and 531.37 of the regulations contain a discussion of the principles applicable to the making of deductions in non-overtime and overtime workweeks.

If you wish further information, you may find it convenient to communicate with our Regional Office at United States Courthouse and Federal Office Building, 7th Floor, 219 South Dearborn Street, Chicago, Illinois 60604. That office will be pleased to give you every possible assistance.

As requested by \*\*\* a copy of this letter is being sent to him.

Sincerely yours,

Clarence T. Lundquist  
Administrator

Enclosure