

MEMO# 22502

May 8, 2008

Institute Letter to Treasury and IRS Requesting Further Guidance Under 403(b) Regulations

[22502]

May 8, 2008

TO: BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 14-08
TRANSFER AGENT ADVISORY COMMITTEE No. 25-08 RE: INSTITUTE LETTER TO TREASURY
AND IRS REQUESTING FURTHER GUIDANCE UNDER 403(B) REGULATIONS

The Institute submitted the attached letter to Treasury and the Internal Revenue Service requesting guidance on transition issues under the final 403(b) regulations. [\[1\]](#) The letter also outlines the Institute's interpretation of how to resolve these open issues in case further guidance is not feasible at this time.

Specifically, the letter addresses what it means for a 403(b) contract to be maintained pursuant to a plan, who could sign an information sharing agreement, and what contracts an information sharing agreement could cover. In addition, the letter discusses the scope and different levels of relief provided in Revenue Procedure 2007-71 [\[2\]](#) for existing contracts, the cut-off date for eligibility for certain relief, and other technical issues relating to the relief. The letter includes suggestions for administering grandfathered contracts issued in connection with a 90-24 transfer and addresses the relief for non-grandfathered contracts resulting from transfers made prior to the effective date of the regulations. Finally, the letter urges a reasonable approach to enforcement of the final regulations in the near term, given the significant changes required of employers.

Elena Barone

[Attachment](#)

endnotes

[\[1\]](#) See Memorandum to Pension Members No. 43-07 [21395], dated July 27, 2007.

[\[2\]](#) See Memorandum to Pension Members No. 70-07 [21982], dated November 29, 2007. The Institute submitted a separate comment letter regarding the model plan language provided in Rev. Proc. 2007-71. See Memorandum to Pension Members No. 15-08 [22341], dated March 14, 2008. Prior to the release of Rev. Proc. 2007-71, the Institute requested guidance on orphaned contracts and other issues. See Memorandum to Pension Members No. 51-07 [21579], dated September 12, 2007.