

MEMO# 10156

July 30, 1998

IRS OPENS 457 PLAN PRIVATE LETTER RULING PROGRAM; PROVIDES MODEL AMENDMENTS

[10156] July 30, 1998 TO: PENSION MEMBERS No. 49-98 PENSION OPERATIONS ADVISORY COMMITTEE No. 33-98 RE: IRS OPENS 457 PLAN PRIVATE LETTER RULING PROGRAM; PROVIDES MODEL AMENDMENTS

_____ The Internal Revenue Service in Revenue Procedure 98-40 has announced that it will consider requests for private letter rulings on section 457(b) deferred compensation plans. Additionally, the Service has issued Revenue Procedure 98-41, which provides model amendments that may be used to amend 457(b) plans to comply with the Small Business Job Protection Act of 1996 (SBJPA) and the Taxpayer Relief Act of 1997 (TRA '97). Revenue Procedure 98-40 sets forth procedural requirements for obtaining requests for private letter rulings for 457(b) plans. In the case of a plan maintained by a state or local government entity, a copy of a trust agreement, custodial account agreement or annuity contract must be included with the ruling request. New private letter rulings will not be issued for plans that have previously received a private letter ruling if the plan is amended solely to conform it to the legislative changes by adding one or more of the model amendments issued in Revenue Procedure 98-41. Revenue Procedure 98-41 provides model amendments that would enable 457 plans to comply with (1) statutory changes to section 457(e)(9) to permit in-service distributions of amounts of \$5,000 or less under certain conditions and to permit an additional election by a participant to defer commencement of distributions; (2) new section 457(e)(15), which indexes the \$7,500 deferral limitation; and (3) new section 457(g), which provides that all assets under a plan maintained by a state or local government entity must be held in trust. An employer with a prior private letter ruling may continue to rely on that ruling if it adopts one or more of the model amendments on a word-for-word basis. Russell G. Galer Senior Counsel Attachment Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Library Services Division at (202)326- 8304, and ask for this memo's attachment number: 10156.