

MEMO# 15215

October 23, 2002

LETTER TO IRS REQUESTING GUIDANCE ON TRANSFERS FROM 403(B) ARRANGEMENTS USED TO PURCHASE GOVERNMENT SERVICE CREDITS

[15215] October 23, 2002 TO: PENSION MEMBERS No. 51-02 PENSION OPERATIONS ADVISORY COMMITTEE No. 70-02 RE: LETTER TO IRS REQUESTING GUIDANCE ON TRANSFERS FROM 403(B) ARRANGEMENTS USED TO PURCHASE GOVERNMENT SERVICE CREDITS As we previously informed you, the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") includes a provision allowing state and local government employees to transfer assets in a "direct trustee-to-trustee transfer" from their 403(b) arrangement or 457 plan to purchase service credits under a governmental defined benefit plan.¹ Proposed regulations on 457 plans issued earlier this year provide that a transfer from an eligible governmental plan to a defined benefit plan is not treated as a distribution. In our comments to the 457 proposed regulations, we requested confirmation that plan-to-plan transfers, including amounts transferred for the purchase of permissive past service credit, are not reported on Form 1099-R.² The current 403(b) regulations address neither the tax treatment nor the applicability of reporting requirements to transfers from an eligible governmental plan to purchase service credits in a governmental defined benefit plan. The attached letter to the Internal Revenue Service follows up on an earlier conversation we had with the IRS Tax Exempt/ Government Entities Division during which we stated that transfers from 403(b) arrangements used to purchase government service credits should be treated the same as transfers from 457 plans, i.e., as distributions, for purposes of tax treatment and reporting requirements. Accordingly, we recommend that such transfers should not be subject to information reporting. Lisa Robinson Assistant Counsel Attachment (in .pdf format) Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 15215, or call the ICI Library at (202) 326-8304 and request the attachment for memo 15215. 1 See Institute Memorandum to Pension Members No. 21-01 and Pension Operations Advisory Committee No. 35-01, dated May 31, 2001. 2 See Institute Memorandum to Pension Members No. 36-02 and Pension Operations Advisory Committee No. 53-02, dated August 6, 2002.