

**MEMO# 8959**

June 2, 1997

# **IRS PUBLISHES GUIDANCE FOR SPONSORS OF SIMPLE AND NON-SIMPLE IRA PROTOTYPES**

June 2, 1997 TO: PENSION MEMBERS No. 22-97 PENSION OPERATIONS ADVISORY COMMITTEE No. 15-97 RE: IRS PUBLISHES GUIDANCE FOR SPONSORS OF SIMPLE AND NON-SIMPLE IRA PROTOTYPES

The Internal Revenue Service has published Revenue Procedure 97-29. This revenue procedure provides the following: (1) a model amendment that may be used by a sponsor of a prototype individual retirement account or annuity to establish a prototype SIMPLE IRA, (2) guidance on obtaining opinion letters for prototype SIMPLE IRAs, (3) a permissive amendment to non-SIMPLE IRAs that would prohibit the non-SIMPLE IRA from accepting deposits of SIMPLE IRA contributions, (4) a permissive amendment to non-SIMPLE IRAs to reflect the increase in the deductibility limitation for spousal non-SIMPLE IRAs from \$250 to \$2,000, (5) the opening of a program for the approval of prototype SIMPLE IRA plans, which is described in section 6 of the revenue procedure, and (6) transitional relief for users of SIMPLE IRAs and SIMPLE IRA plans that have not been approved by the Service. Under this guidance, a prototype sponsor with an approved prototype non-SIMPLE IRA may create an approved prototype SIMPLE IRA by using the model amendment procedure set forth in Section 3 of the revenue procedure. Sponsors using the model amendment must request an opinion letter on or before December 31, 1998 by filing Form 5306, as modified pursuant to the instructions provided in the revenue procedure. Alternatively, under Section 4 of the revenue procedure, sponsors may submit a prototype SIMPLE IRA that does not make use of the model amendment language to the Service and similarly request an opinion letter. The Service will not issue opinion letters on prototypes that are designed to be used as both a SIMPLE and non-SIMPLE IRA. The revenue - 2 - procedure states that additional sample language will be published in a Listing of Required Modifications (LRMs). The LRMs, which are not yet published, will be available by June 16. Sponsors making permissive amendments to non-SIMPLE IRAs, which are described in the revenue procedure, will not lose reliance on current opinion letters and need not submit amended IRA prototypes for new opinion letters. Corresponding disclosure statements required under section 408(i), however, must be changed to reflect the amendments and distributed to individuals using the amended non-SIMPLE IRA. Transitional relief for SIMPLE IRAs and SIMPLE IRA plans established in 1997 is provided in Section 7 of the revenue procedure. Sponsors must apply for an opinion letter for these documents by December 31, 1997. Once approved, the individual employee, in the case of an IRA, and the employer, in the case of a SIMPLE plan document, must adopt the approved document within 120 days. A different timeframe is provided where the approved document must also be approved by state insurance

departments. We will keep you informed of developments. Russell G. Galer Assistant Counsel - Pension Attachment (in .pdf format)

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