

MEMO# 13076

January 23, 2001

PROPOSED CHANGES TO "NOTICE TO INTERESTED PARTY" RULE PROVIDE FOR ELECTRONIC DELIVERY

[13076] January 23, 2001 TO: PENSION COMMITTEE No. 7-01 PENSION OPERATIONS ADVISORY COMMITTEE No. 8-01 RE: PROPOSED CHANGES TO "NOTICE TO INTERESTED PARTY" RULE PROVIDE FOR ELECTRONIC DELIVERY The Internal Revenue Service has issued proposed regulations relating to the requirement that plan sponsors issue a "notice to interested parties" when applying for a determination letter. The proposed regulations enable plan sponsors to use electronic media to deliver the notice. Those wishing to comment on the proposal must submit written or electronic comments to the Service by April 17, 2001. The proposed regulations will be effective with respect to determination letter applications made on or after the date they are published in the Federal Register as final regulations. However, plan sponsors may rely on the proposed regulations for guidance pending issuance of final regulations. Current Regulations. Existing section 1.7476-1(a)(1) of the Internal Revenue Code regulations provides that in order to receive a determination on the qualified status of a retirement plan, the applicant must provide evidence that individuals who qualify as "interested parties" received notification of the determination letter application. Section 1.7476- 2(b) provides that the notice must be in writing and contain certain information. For present employees, section 1.7476-2(c)(1) provides the notice must be given in person, by mailing, by posting or by printing in a publication reasonably available to employees. For former employees and beneficiaries, the current regulations provide that notice be given in person or by mail to the last known address. Section 1.7476-2(c)(2). Proposed Regulations. The proposed regulations eliminate the writing requirement for the notice to interested parties and replace it with new standards designed to ensure that interested parties will receive timely and adequate notice and to permit greater flexibility in the manner in which the notice may be provided. Specifically, the proposed regulations provide that the notice may be provided "by any method that reasonably ensures that all interested parties will receive timely and adequate notice." Proposed section 1.7476-2(c)(1). Furthermore, the proposed regulations provide a safe harbor method of electronic delivery: If the notice "is delivered using an electronic medium 2under a system that satisfies the requirements of Q&A-5 of section 1.402(f)-1,"1 the notice will be deemed satisfactory. Proposed section 1.7476-2(c)(2). The proposed regulations also set forth examples demonstrating how these standards may be implemented. Russell G. Galer Senior Counsel Attachment Attachment (in .pdf format) 1 See Institute Memorandum to Pension Members No. 14-00 and Pension Operations Advisory Committee No. 13-00, dated February 15, 2000.

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.