

MEMO# 18361

December 22, 2004

DRAFT INSTITUTE COMMENT LETTER CONCERNING PROTOTYPE PLAN PROVISIONS OF IRS ANNOUNCEMENT 2004-71

[18361] December 22, 2004 TO: PENSION COMMITTEE No. 59-04 PENSION OPERATIONS ADVISORY COMMITTEE No. 84-04 RE: DRAFT INSTITUTE COMMENT LETTER CONCERNING PROTOTYPE PLAN PROVISIONS OF IRS ANNOUNCEMENT 2004-71 Attached for your review is a draft comment letter to the Internal Revenue Service concerning Announcement 2004-71, which includes a draft revenue procedure that would establish a system of six-year amendment/approval cycles for prototype plans.¹ The draft letter addresses the proposed requirement in section 15.01 of the draft revenue procedure that an employer and prototype sponsor must timely execute an IRS form certifying the employer's intent to adopt the sponsor's prototype plan in order for the employer to qualify for the prototype remedial amendment period. The Institute's letter requests that the IRS clarify the legal and practical implications of such a certification, and circulate a draft of the proposed form before its finalization.² The comment letter must be filed with the IRS by Monday, January 3, 2005. If you have comments or questions concerning the draft letter, please contact me by telephone at (202) 371- 5432 (before Friday, December 24) or by e-mail at kireland@ici.org. In my absence between Monday, December 27 and Friday, December 31, you can speak with Lisa Robinson at (202) 326- 5835 or Keith Lawson at (202) 326-5832. Kathy D. Ireland Senior Associate Counsel Attachment (in .pdf format) 1 See Memorandum to Pension Committee No. 46-04 and Pension Operations Advisory Committee No. 65-04 [18053], dated September 30, 2004. 2 Institute members have raised two other issues, dealing with advance notice of the completion of IRS review of prototype plan documents and minor employer changes to prototype plans; however, we understand that these issues will be resolved in guidance issued before the January 3, 2005 due date for comments on Announcement 2004- 71.