

MEMO# 17914

August 24, 2004

REV. PROC. 2004-56 PROVIDES MODEL AMENDMENTS FOR 457(B) PLANS

[17914] August 24, 2004 TO: PENSION OPERATIONS ADVISORY COMMITTEE No. 58-04 PENSION COMMITTEE No. 40-04 RE: REV. PROC. 2004-56 PROVIDES MODEL AMENDMENTS FOR 457(B) PLANS The Internal Revenue Service has released Revenue Procedure 2004-56 (attached), which provides model amendments that may be used by a state or local government employer to amend or draft a 457(b) plan reflecting the requirements of Code section 457(b) and the final section 457 regulations issued last year.¹ These regulations provided guidance for complying with legislative changes enacted by the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), the Taxpayer Relief Act of 1997 ("TRA") and the Small Business Job Protection Act of 1996 ("SBJPA"). A state or local government may amend or establish a 457(b) plan by adopting one or more of the model amendments in Rev. Proc. 2004-56. An employer may adopt the amendments on a word-for-word basis, or it may adopt an amendment that is substantially similar to a model amendment. Use of a model amendment is not equivalent to receiving a private letter ruling that provides that a plan is eligible under section 457(b). If a plan adopts a model amendment, it must operate in accordance with such amendment in order to maintain eligibility. In order to satisfy the requirements of EGTRRA, a model amendment must be adopted no later than December 31, 2005. Other requirements may apply to certain plans. Treasury and the IRS have requested comments on the model amendments by November 30, 2004. Please contact me with any comments regarding Rev. Proc. 2004-56 at 202-326-5835 or lrobinson@ici.org. Lisa Robinson Assistant Counsel Attachment (in .pdf format)

¹ See Institute Memorandum No. 16293 to Pension Members No 33-03 and Pension Operations Advisory Committee No. 43-03, dated July 15, 2003.