

MEMO# 14779

May 31, 2002

IRS ISSUES GUIDANCE ON LATE GUST AMENDMENT FILING PROCEDURES

[14779] May 31, 2002 TO: PENSION MEMBERS No. 26-02 PENSION OPERATIONS ADVISORY COMMITTEE No. 36-02 RE: IRS ISSUES GUIDANCE ON LATE GUST AMENDMENT FILING PROCEDURES The Internal Revenue Service has issued Revenue Procedure 2002-35, which establishes streamlined procedures for plans that failed to be timely amended for "GUST."¹ Under these procedures, a plan sponsor of an "Eligible Qualified Plan"² may seek to resolve the failure to timely amend the plan by filing a complete GUST determination letter application by September 3, 2002. If the application is filed on or after July 17, 2002, a fee based on the number of plan participants (in addition to any applicable determination letter user fee) must be included with the application. The guidance specifies that these procedures apply to Eligible Qualified Plans in lieu of the guidance provided in Revenue Procedure 2001-17, which sets forth the rules under the Employee Plans Compliance Resolution System (EPCRS).³ Revenue Procedure 2002-35 is effective on June 17, 2002. Thomas T. Kim Associate 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 14779, or call the ICI Library at (202) 326-8304 and request the attachment for memo 14779. 1 As you may recall, the IRS in November 2001 extended the GUST remedial amendment period in Revenue Procedure 2001-55. See Institute Memorandum to Pension Members No. 34-01 and Pension Operations Advisory Committee No. 70-01, dated November 15, 2001. 2 An Eligible Qualified Plan is a plan intended to satisfy Code section 401(a) or 403(a) that has not been amended for GUST within its GUST remedial amendment period and for which an application for a determination letter that considers all of the requirements of GUST is filed by September 3, 2002. 3 See Institute Memorandum to Pension Members No. 5-01, Pension Operations Advisory Committee No. 9-01 and Ad Hoc Committee on IRS Group Correction Program, dated January 26, 2001.