

**MEMO# 14505**

March 6, 2002

## **IRS CHANGES TO SAFE HARBOR EXPLANATION UNDER CODE SECTION 402(F)**

[14505] March 6, 2002 TO: PENSION MEMBERS No. 8-02 PENSION OPERATIONS ADVISORY COMMITTEE No. 13-02 RE: IRS CHANGES TO SAFE HARBOR EXPLANATION UNDER CODE SECTION 402(f) Late last year, the Internal Revenue Service issued an advance copy of Notice 2002-3, which contained two “safe harbor explanations” that plan administrators may provide to recipients of eligible rollover distributions in order to satisfy section 402(f) of the Internal Revenue Code.<sup>1</sup> The version of Notice 2002-3 published in the Internal Revenue Bulletin, however, differs in some respects from the advance copy. A copy of the final version is attached. In the explanation applicable to distributions from section 401(a) and 403(a) plans and section 403(b) arrangements, the last sentence, under the heading “Required Minimum Payments,” on page 9 of the advance copy of the Notice, reads in the final version as follows: “Special rules apply if you own more than 5% of your employer.” In addition, under the heading “Special Tax Treatment If You Were Born before January 1, 1936,” on page 13 of the advance copy, the final version adds a reference to “a governmental 457 plan” in the third sentence of the first full paragraph. Finally, in both safe harbor explanations, at pages 11 and 20 of the advance copy, in the discussion of voluntary withholding, the final version states as follows: “If you do nothing, an amount will be taken out of this portion of your payment for federal income tax withholding.” Kathy D. Ireland Associate Counsel 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 14505, or call the ICI Library at (202) 326-8304 and request the attachment for memo 14505. Attachment (in .pdf format) 1 See Institute Memorandum to Pension Members No. 42-01 and Pension Operations Advisory Committee No. 79-01, dated December 27, 2001.