

MEMO# 11497

December 29, 1999

NASD PROPOSED RULE CHANGE RELATING TO PROXIES IN THE ABSENCE OF WRITTEN INSTRUCTIONS FROM BENEFICIAL OWNERS

[11496] December 28, 1999 TO: PENSION MEMBERS No. 51-99 PENSION OPERATIONS
ADVISORY COMMITTEE No. 61-99 RE: IRS ANNOUNCEMENT REGARDING SECTION 457 PLAN
REPORTING

The Internal Revenue Service has released Announcement 2000-1, providing interim information about the reporting requirements applicable to the section 457 plans of state and local governments. The release concerns plans intended to qualify as “bona fide severance pay plans” under section 457(e)(11) of the Internal Revenue Code. Under this interim guidance, state and local governments are instructed not to report distributions on either a Form 1099 or a Form W-2 for any year in which the participant or beneficiary receives a distribution if the amounts distributed are provided under the following type of plan: (1) the plan was in existence on December 22, 1999; (2) the plan is a broad-based plan maintained by a state or local government employer primarily for non-highly compensated employees; (3) the plan is nonelective, i.e., the plan must not provide the participant with a choice between current and future compensation; (4) the plan has been treated by the state or local government as a bona fide severance pay plan under section 457(e)(11) for those years before calendar year 1999 in which the plan was in existence; (5) the plan satisfies the following three requirements: (a) payments under the plan are designed to provide supplemental income for a transitional period, rather than to provide retirement income; (b) payments under the plan are made only after separation from service with the employer, including retirement; (c) payments are completed within a short period of time, not to exceed 5 years, after separation from service. According to the Announcement, many plans with the characteristics described above are presently treated by their sponsors as “bona fide severance pay plans” within the meaning of section 457(e)(11) and, accordingly, would not be subject to the income inclusion provisions applicable to ineligible section 457(f) plans. The Service and Treasury, however, are now considering guidance and seek comments on what types of plans are properly considered bona fide severance pay plans. Written comments may be sent to the Internal Revenue Service, Attn: CC:DOM:CORP:R (Section 457 Plans), Room 5201, P.O. Box 7604, Ben Franklin Station, Washington, D.C. 20044. Comments must be received by February 20, 2000. Russell G. Galer Senior Counsel Attachment Note: Not all recipients receive the attachment. To obtain a copy of the attachment referred to in this Memo, please call the ICI Library at (202) 326-8304, and ask for attachment number 11496. ICI Members may retrieve this Memo and its attachment from ICINet (<http://members.ici.org>).

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