

**MEMO# 17770**

July 14, 2004

## **DRAFT COMMENT LETTER REGARDING NEW 2004 INSTRUCTIONS FOR FORM 1099-R**

[17770] July 14, 2004 TO: PENSION COMMITTEE No. 32-04 PENSION OPERATIONS ADVISORY COMMITTEE No. 50-04 RE: DRAFT COMMENT LETTER REGARDING NEW 2004 INSTRUCTIONS FOR FORM 1099-R Attached for your review is a draft Institute comment letter regarding the revised 2004 instructions for Form 1099-R. The draft letter requests certain clarifications regarding the use of revised distribution codes. Specifically, we request the following:

- o Clarify that a payer should use distribution code 1 when the payer does not have access to relevant factual information. We recommend adding certain specific examples to the explanations to the "Guide to Distribution Codes" on page R-9 of the 2004 instructions in order to clarify that certain distributions should or should not be coded in a particular manner under the new rules, particularly with respect to distribution codes 1 and 7.
- o Clarify that payers should report distributions made prior to age 59 ½ using a code 1 or 2, as relevant, and should report distributions made when the payee is age 59 ½ or older using a code 7. The requested clarification would require eliminating or changing certain explanations and examples that appear to have been unintentionally incorporated from the prior year's instructions and no longer seem applicable under the new rules.
- o Clarify the proper codes to be used when reporting section 457(b) plan distributions that include rollovers from another type of plan or IRA.
- o Include an explanatory statement in the revised Form 1040 that alerts taxpayers to the changes in the 2004 Form 1099-R instructions in order to reduce taxpayer confusion about why distributions that were previously reported using a particular distribution code are now being reported under a different distribution code.
- o Issue a notice or similar guidance clarifying that a minimal transition period exists for payers, so that they can update systems to accommodate mid-year reporting changes.

2 When reviewing the draft letter, please note the following issues:

- (1) With respect to the reporting of distributions from governmental 457(b) plans that include rollover amounts from other types of plan or IRAs, we note the problems but do not offer a specific recommendation. Please provide suggestions for how to address these issues.
- (2) I received a question regarding 1099-R reporting and the use of code L in combination with code 4. A code L should be used for a loan treated as a deemed distribution, and not for an offset. In 2003, the instructions no longer provided for code L to be combined with a code 2. The reason for this seemed to be that the only time a participant would get a code 2 would be due to having terminated in the year in which the participant attained age 55 or later, but had not yet attained age 59-1/2 - a distributable event. Therefore, all payees who could have received an L2 should actually be getting a 2 and have the loan offset rather than treated as a deemed distribution. If this is the case, why is an L4 still an available distribution code, since death is also a distributable event?

Should we address this question in our comment letter? Please provide comments to this draft letter by Friday, July 16, 2004. You may contact me at (202) 326-5835 or [lrobinson@ici.org](mailto:lrobinson@ici.org). Lisa Robinson Assistant Counsel Attachment (in .pdf format)

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