

MEMO# 14144

November 15, 2001

IRS EXTENDS GUST REMEDIAL AMENDMENT PERIOD

[14144] November 15, 2001 TO: PENSION MEMBERS No. 34-01 PENSION OPERATIONS ADVISORY COMMITTEE No. 70-01 RE: IRS EXTENDS GUST REMEDIAL AMENDMENT PERIOD

The Internal Revenue Service has issued Revenue Procedure 2001-55, which extends the "GUST" remedial amendment period for all plans to February 28, 2002, if the period would otherwise end before that date. In addition, the revenue procedure provides an extension to June 30, 2002, for plans that were directly affected by the September 11, 2001, terrorist attack. The revenue procedure also allows the Service, in its discretion, to grant additional extensions up to December 31, 2002, in cases of substantial hardship resulting from the terrorist attack. For purposes of the revenue procedure, a plan will be considered "directly affected" by the terrorist attack if any of the following were located at the time of the attack in the area of Manhattan bounded on the north by 14th Street: (1) the principal place of business of any employer that maintains the plan; (2) the office of the plan or the plan administrator; (3) the office of the primary recordkeeper serving the plan; or (4) the office of an attorney, enrolled actuary, certified public accountant or other advisor retained by the plan (or by the employer with respect to issues involving the plan). A plan also will be considered "directly affected" if any individual required to approve plan amendments, the plan administrator, or an individual described in (4) above was injured or killed or is missing as a result of the terrorist attack. In addition, the revenue procedure allows a plan that would not otherwise qualify as directly affected to ask the Service to designate the plan as such if the plan sponsor's ability to amend the plan and file a determination letter application has been "severely impaired" as a direct result of the terrorist attack. The general extension of the remedial amendment period to February 28, 2002, also applies to the time by which an employer must either adopt a prototype plan or certify its intent to adopt such a plan in order to be eligible for the extension of the GUST remedial amendment period under Revenue Procedure 2000-20, as modified.¹ According to the revenue procedure, ¹ See Institute Memoranda to Pension Members No. 23-01 and Pension Operations Advisory Committee No. 42-01, dated June 29, 2001, and Institute Memoranda to Pension Members No. 7-01 and Pension Operations Advisory Committee No. 11-01, dated February 2, 2001. ² however, the further extension for plans directly affected by the terrorist attack does not apply in this context. Kathy D. Ireland Associate Counsel

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