

MEMO# 10875

April 9, 1999

IRS EXTENDS REMEDIAL AMENDMENT PERIOD

1 See Institute Memorandum to Pension Members No. 31-97 and Pension Operations Advisory Committee No. 27-97, dated August 8, 1997, and Institute Memorandum to Pension Members No. 4-98 and Pension Operations Advisory Committee No. 2-98, dated January 15, 1998. 2 See Institute Memorandum to Pension Members No. 66-98, dated October 30, 1998. [10875] April 9, 1999 TO: PENSION MEMBERS No. 19-99 PENSION OPERATIONS ADVISORY COMMITTEE No. 25-99 RE: IRS EXTENDS REMEDIAL AMENDMENT PERIOD _____ The Internal Revenue Service has released a revenue procedure extending the remedial amendment period during which plan amendments relating to certain qualification changes may be made retroactively effective. Under prior revenue procedures, the remedial amendment period for changes made by the Small Business Job Protection Act of 1996 (SBJPA), the Uruguay Round Agreements Act of 1994 (GATT), the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and the Taxpayer Relief Act of 1997 (TRA 97) was scheduled to end on the last day of the first plan year beginning on or after January 1, 1999.¹ Revenue Procedure 99-23 extends the remedial amendment period for these changes until the last day of the first plan year beginning on or after January 1, 2000. Revenue Procedure 99-23 also extends the deadline for amending plans to reflect the design-based "safe harbor" methods for satisfying the sections 401(k) and (m) nondiscrimination tests to the last day of the first plan year beginning on or after January 1, 2000. In addition, this revenue procedure eliminates the requirement set forth in Notice 98-52 that the "safe harbor" provisions must be effective as of the first day of the first plan year beginning after December 31, 1998.² Thus, for example, an existing section 401(k) plan may be amended by the last day of the 2000 plan year, retroactive to the first day of that year (or to the first day of the 1999 plan year) to satisfy the safe harbors for the 2000 plan year (or for both the 1999 and 2000 plan years). 3 See Institute Memorandum to Pension Members No. 80-98, dated December 28, 1998. The deadline for amending plan provisions to reflect the change in the rollover treatment of hardship distributions pursuant to the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) has also been extended. Such amendments, however, continue to be subject to the requirement under Notice 99-5 that they must be effective as of the first day the plan operates in accordance with the change in rollover treatment.³ A copy of the revenue procedure is attached. 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 10875. ICI Members may retrieve this Memo and its attachment from ICINet (<http://members.ici.org>).

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