

**MEMO# 18221**

November 19, 2004

# **INSTITUTE COMMENT LETTER CONCERNING DEPARTMENT OF LABOR PROPOSED REGULATIONS UNDER USERRA**

[18221] November 19, 2004 TO: PENSION MEMBERS No. 59-04 PENSION OPERATIONS ADVISORY COMMITTEE No. 81-04 RE: INSTITUTE COMMENT LETTER CONCERNING DEPARTMENT OF LABOR PROPOSED REGULATIONS UNDER USERRA The Institute has submitted the attached comment letter to the Veterans' Employment and Training Service (VETS) of the Department of Labor concerning proposed regulations under the Uniformed Services Employment and Reemployment Rights Act of 1994.<sup>1</sup> The Institute's letter requests that the 30-day deadline for profit-sharing and similar "non-contingent" employer contributions be replaced with a requirement that such contributions be made by the end of the calendar quarter following the calendar quarter in which the service member is reemployed. In addition, the letter addresses the proposed requirement that certain former employees be permitted to make after-tax contributions in order to receive employer matching contributions. Specifically, the Institute suggests that, given that many plans do not provide for after-tax contributions, employers be given the option to match such employees' contributions to individual retirement accounts (IRAs). The letter also suggests that the proposed repayments of withdrawals be treated in the same way as the "buy-backs" often available to employees who become reemployed after they receive a distribution of their accrued benefit upon termination of employment. In light of the Internal Revenue Service guidance, plan amendments, and administrative changes that the final regulations would likely require, the Institute also requests that the final regulations become effective for implementation purposes at the end of the plan year following the plan year of the publication of the final regulations. Kathy D. Ireland Senior Associate Counsel Attachment (in .pdf format) 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 18221, or call the ICI Library at (202) 326-8304 and request the attachment for memo 18221. 1 See Memorandum to Pension Members No. 52-04 [18096], dated October 13, 2004.