

MEMO# 18336

December 16, 2004

IRS ISSUES 2004 CUMULATIVE LIST OF CHANGES IN PLAN QUALIFICATION REQUIREMENTS

[18336] December 16, 2004 TO: PENSION MEMBERS No. 61-04 PENSION OPERATIONS ADVISORY COMMITTEE No. 82-04 RE: IRS ISSUES 2004 CUMULATIVE LIST OF CHANGES IN PLAN QUALIFICATION REQUIREMENTS The Internal Revenue Service has published Notice 2004-84, 1 which contains the Cumulative List of Changes in Plan Qualification Requirements for 2004. The 2004 Cumulative List is to be used primarily by plan sponsors in drafting defined contribution prototype and other pre-approved plans for their first submission to the IRS under the new six-year amendment/approval cycle for such plans.² The 2004 Cumulative List reflects law changes under EGTRRA with technical corrections made by the Job Creation and Worker Assistance Act of 2002, as well as regulations and guidance published by the IRS that are effective after December 31, 2001. The list only addresses statutory changes and guidance that would apply to the types of defined contribution plans that may be used as pre-approved plans, and includes the following items: • Final regulations on required minimum distributions under section 401(a)(9) of the Internal Revenue Code; • Upcoming guidance on the automatic rollover of certain mandatory distributions under section 401(a)(31)(B) of the Code;³ • Upcoming final regulations under sections 401(k) and 401(m) of the Code; • Upcoming proposed regulations concerning the optional treatment of elective deferrals as designated Roth contributions to defined contribution plans under section 402A of the Code;⁴ 1 Notice 2004-84 is available at <http://www.irs.gov/pub/irs-drop/n-04-84.pdf>. 2 See Announcement 2004-71, 2004-40 I.R.B. 569, for a description of the new system. 3 The Notice explains that the effective date of the automatic rollover provision is March 28, 2005, and that guidance on this provision, including a sample amendment, is expected to be published soon. 2 • Final regulations on deemed IRAs in eligible retirement plans under section 408(q) of the Code; and • Final regulations on catch-up contributions under section 414(v) of the Code. The IRS in Announcement 2004-71 proposed to open the approval process for defined contribution prototype plans on February 1, 2005. The 12-month submission period is intended to end on January 31, 2006. Kathy D. Ireland Senior Associate Counsel 4 According to the Notice, proposed Roth 401(k) regulations will be issued soon, and are expected to be finalized in mid-2005. The IRS expects that plan amendments will be required to reflect the final Roth 401(k) regulations.

should not be considered a substitute for, legal advice.