

MEMO# 17681

June 16, 2004

INTERNAL REVENUE SERVICE REVISES SEPARATE ACCOUNT TIMING RULE IN FINAL REGULATIONS CONCERNING REQUIRED MINIMUM DISTRIBUTIONS

[17681] June 16, 2004 TO: PENSION MEMBERS No. 33-04 PENSION OPERATIONS ADVISORY COMMITTEE No. 42-04 RE: INTERNAL REVENUE SERVICE REVISES SEPARATE ACCOUNT TIMING RULE IN FINAL REGULATIONS CONCERNING REQUIRED MINIMUM DISTRIBUTIONS

The Internal Revenue Service has issued final regulations concerning required minimum distributions (RMDs) under section 401(a)(9) of the Internal Revenue Code.¹ Although these regulations primarily address defined benefit plans, these regulations also contain a change to the 2002 regulations governing the establishment of separate accounts under defined contribution plans and IRAs. Under the 2002 regulations, separate accounts established after the year of the participant's (or IRA owner's) death (Year D+1) were not recognized for RMD purposes until the following year (Year D+2), which required some beneficiaries to take larger distributions in Year D+1 than they would have if their accounts had been considered separately for RMD purposes.² The Institute noted in a letter to the Treasury Department in 2003 that this rule arbitrarily discriminated against certain IRA beneficiaries solely on the basis of when the IRA owner died and how quickly separate accounts were established after the owner's death.³ In response to these comments, the revised final regulation provides that separate accounts are recognized for years subsequent to the calendar year containing the date as of which the separate accounts are established. The preamble explains that if separate accounts, determined as of the participant's or IRA owner's date of death, are actually established by the end of the calendar year following the year of death (i.e., Year D+1), the separate accounts can be used to determine RMDs for the year following the year of death (Year D+1). ¹ The final regulations are available online at

<http://a257.g.akamaitech.net/7/257/2422/06jun20041800/edocket.access.gpo.gov/2004/pdf/04-13475.pdf>. ² See Treas. Reg. 1.401(a)(9)-8, Q&A-2(a)(2). Under Q&A-7 of 1.401(a)(9)-5 of the regulations, the general rule in the case of multiple beneficiaries is that the beneficiary with the shortest life expectancy will be the "designated beneficiary" for purposes of determining the applicable distribution period for all beneficiaries. ³ See Institute Memorandum to Pension Members No. 16-03 and Pension Operations Advisory Committee No. 20-03 [15940], dated April 24, 2003. ² The final regulations are effective June 15, 2004, but apply for purposes of determining RMDs for calendar years beginning on or after January 1, 2003. Kathy D. Ireland Senior Associate Counsel

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