

MEMO# 18482

January 31, 2005

DRAFT INSTITUTE COMMENT LETTER ON PROPOSED 403(B) REGULATIONS

[18482] January 31, 2005 TO: PENSION COMMITTEE No. 3-05 PENSION OPERATIONS ADVISORY COMMITTEE No. 3-05 RE: DRAFT INSTITUTE COMMENT LETTER ON PROPOSED 403(B) REGULATIONS Attached is a draft of the Institute's comment letter on the IRS proposed regulations under section 403(b) of the Code.¹ The letter recommends that the IRS take affirmative steps to assist employers in complying with the proposed plan document requirement by providing a delayed effective date, a model form similar to the Form 5305-SEP, and, along with the Department of Labor, detailed guidance as to the effect of the new rules on ERISA coverage. The letter also urges the retention of Revenue Ruling 90-24, which allows 403(b) participants greater flexibility to transfer among different funding vehicles than would the proposed regulations.² Finally, the Institute's comments support the proposed ability of employers to freeze or terminate their 403(b) plans, and request additional options for employers. Please contact me with any comments or questions concerning the draft letter by Monday, February 7, by telephone at 202/371-5432, by fax at 202/326-5841, or by email at kireland@ici.org. Kathy D. Ireland Senior Associate Counsel Attachment (in .pdf format) 1 See Memorandum to Pension Committee No. 55-04 and Pension Operations Advisory Committee No. 79-04, dated November 18, 2004. 2 The final comment letter will include a copy of the ruling request submitted by the Institute and others that resulted in the issuance of Revenue Ruling 90-24.