

MEMO# 13893

August 27, 2001

IRS REVIEW OF DETERMINATION LETTER PROCESS

[13893] August 27, 2001 TO: PENSION COMMITTEE No. 61-01 PENSION OPERATIONS ADVISORY COMMITTEE No. 54-01 RE: IRS REVIEW OF DETERMINATION LETTER PROCESS As we previously advised,¹ the Internal Revenue Service in Notice 2001-42 stated that it was reviewing the design of the Employee Plans determination letter process. Attached is a copy of Announcement 2001-83, in which the IRS invites the public to participate in a dialogue on the long-term future of the determination letter program. In connection with this review, the Employee Plans (EP) Rulings and Agreements segment of the Tax Exempt and Government Entities Division of the IRS has prepared the attached white paper describing the project and outlining several options identified as possible alternatives to the present determination letter program. EP has invited interested parties to submit written comments on the ideas raised in the white paper by March 31, 2002. The white paper identifies several challenges with the present determination letter program, including the “spikes” in the determination letter workload that draw resources away from other EP programs, and the inability of the current determination letter program to respond in a timely way to changes in law. The paper presents ten options to the current program: (1) eliminating determination letters altogether and providing model plans for employers who want reliance; (2) eliminating determination letters for individually designed plans; (3) replacing the determination letter program with a third-party certification system; (4) replacing the determination letter program with a self-certification system; (5) replacing the determination letter program with a registration system that includes a certified compliance checklist; (6) issuing determination letters only for initial plan adoption and plan termination, 1 2 and requiring registration of amendments; (7) staggering the expiration of the remedial amendment period; (8) staggering the remedial amendment period but requiring immediate plan amendment for law changes; (9) requiring immediate amendment for law changes and guidance changes; and (10) requiring immediate amendment for law changes and cyclical amendment for guidance changes. Kathy D. Ireland Associate Counsel Attachments Attachment no. 1 (in .pdf format)