

MEMO# 20027

May 12, 2006

IRS Releases New Form 8905, Certification of Intent to Adopt a Pre- approved Plan

©2006 Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice. ACTION REQUESTED [20027] May 12, 2006 TO: PENSION COMMITTEE No. 14-06 PENSION OPERATIONS ADVISORY COMMITTEE No. 14-06 RE: IRS RELEASES NEW FORM 8905, CERTIFICATION OF INTENT TO ADOPT A PRE-APPROVED PLAN The Internal Revenue Service released a new Form 8905 for an employer to certify its intent to adopt a pre-approved plan and become eligible for the six-year remedial amendment cycle applicable to prototype plans under Revenue Procedure 2005-66.¹ The form calls for both the employer and the prototype sponsor to provide certain information about the plan and sign the form before the end of the employer's otherwise applicable five-year remedial amendment cycle. The Form 8905 instructions indicate that the form should be attached to Form 5300 (Application for Determination for Employee Benefit Plan), Form 5307 (Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans), or Form 5310 (Application for Determination for Terminating Plan). The instructions do not address whether an employer could file Form 8905 alone, without an accompanying determination letter application. Neither the instructions nor Revenue Procedure 2005-66 address what should happen if the employer ultimately decides to adopt a different prototype sponsor's plan. The IRS is providing an opportunity for interested parties to comment on Form 8905.² Written comments must be received by the IRS on or before June 19, 2006. The Institute will prepare a comment letter if there is sufficient member interest. Please provide any comments or suggestions regarding Form 8905 to the undersigned by Monday, June 5, 2006. Elena Barone Assistant Counsel Attachment (in .pdf format) 1 See Memorandum to Pension Members No. 40-05 [19147], dated September 13, 2005. 2 See 71 Fed. Reg. 20164.