

MEMO# 11949

June 15, 2000

IRS OPENS DETERMINATION LETTER PROGRAM FOR GUST AMENDMENTS AND EXTENDS REMEDIAL AMENDMENT PERIOD

1 65 Fed. Reg. 16546 (March 29, 2000). 2 See Institute Memorandum to Pension Members No. 7-00 and Pension Operations Advisory Committee No. 6-00, dated January 28, 2000. 1 [11949] June 15, 2000 TO: PENSION MEMBERS No. 33-00 PENSION OPERATIONS ADVISORY COMMITTEE No. 41-00 RE: IRS OPENS DETERMINATION LETTER PROGRAM FOR GUST AMENDMENTS AND EXTENDS REMEDIAL AMENDMENT PERIOD

The Internal Revenue Service has released Revenue Procedure 2000-27, which opens the Service's determination letter program to allow sponsors of individually designed qualified plans to obtain letters that take into account all the changes in the qualification requirements made by "GUST," including those changes made by the Small Business Job Protection Act of 1996 that first became effective in plan years beginning after December 31, 1998. Revenue Procedure 2000-27 also extends the remedial amendment period under Section 401(b) of the Internal Revenue Code for these changes until the last day of the first plan year beginning on or after January 1, 2001. The Service will accept applications for determination letters beginning June 26, 2000, and will take into account all the changes in the qualification requirements made by GUST, unless the sponsor asks the Service to limit the scope of its review. The revenue procedure notes that the proposed regulations under Section 411(d)(6) of the Code¹ may not be relied upon prior to their finalization; therefore, the Service will not issue a favorable determination letter for a plan that is amended to eliminate or reduce benefits in a manner that is not permitted under the regulations now in effect. Accordingly, the revenue procedure advises sponsors that are considering submitting determination letter applications before these proposed regulations are finalized that they may be required to submit another application and pay another user fee if they adopt further plan amendments as a result of the final regulations. The extension of the remedial amendment period also applies to employers that adopt prototype plans in order to amend their plans. Under Section 19 of Revenue Procedure 2000-20,² which reopened the Service's master and prototype (M&P) opinion letter program, the remedial amendment period was extended until the twelfth month beginning after the date on which the Service issued a GUST opinion letter for the M&P plan, subject to certain conditions. In order to qualify for this extension, the employer was required to either adopt an M&P plan before the end of the remedial amendment period (determined without regard to the extension), or, before such time, certify its intent to adopt a GUST-approved M&P plan. The extension of the remedial amendment period pursuant to Revenue Procedure 2000-27 also extends

the deadline by 2which an employer must adopt a plan or certify its intent to adopt in order to qualify for the relief provided in Section 19 of Revenue Procedure 2000-20. The conditions to the extension described in Section 19 of Revenue Procedure 2000-20 also included a December 31, 2000 deadline for the prototype sponsor's submission of an application to the Service for an opinion letter. Revenue Procedure 2000-27 states, however, that this deadline has not been extended. Kathy D. Ireland Associate Counsel

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