

MEMO# 16027

May 8, 2003

INTERNAL REVENUE SERVICE RELEASES REVISED WITHHOLDING AND REPORTING REQUIREMENTS FOR SECTION 457 PLANS

[16027] May 8, 2003 TO: OPERATIONS MEMBERS No. 15-03 PENSION MEMBERS No. 20-03 PENSION OPERATIONS ADVISORY COMMITTEE No. 24-03 TAX MEMBERS No. 28-03 TRANSFER AGENT ADVISORY COMMITTEE No. 47-03 RE: INTERNAL REVENUE SERVICE RELEASES REVISED WITHHOLDING AND REPORTING REQUIREMENTS FOR SECTION 457 PLANS The Internal Revenue Service recently released Notice 2003-20, which describes the withholding and reporting requirements applicable to eligible deferred compensation plans under section 457(b) of the Internal Revenue Code. The Notice updates and supersedes Notice 2000-38.1 The Notice reflects Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) revisions to the withholding rules governing distributions from governmental 457(b) plans. EGTRRA added section 3401(a)(12)(E), which provides that such distributions are no longer treated as wages for purposes of income tax withholding under section 3402(a), but are now subject to withholding under section 3405, effective for distributions made after December 31, 2001. Distributions from 457(b) plans maintained by non-governmental tax-exempt entities, however, remain subject to wage withholding under section 3402(a). In addition, the Notice discusses (1) income tax withholding and reporting with respect to annual deferrals made to a 457(b) plan; (2) Federal Insurance Contributions Act (FICA) payment and reporting with respect to annual deferrals under a 457(b) plan; (3) employer identification numbers (EINs) used in connection with trusts established under section 457(g); and (4) the application of annual reporting requirements to 457(b) plan administrators and trustees holding assets of a 457(b) plan in accordance with section 457(g). The Notice generally is applicable to deferrals and distributions made after December 31, 2001, but a transition rule is provided for deferrals and distributions made after that date, and before January 1, 2004. Under this transition rule, the Service will not assert that there has been a failure to comply with applicable reporting and withholding requirements if the requirements of Notice 2000-38 have been satisfied. The Service also requests comments 1 See Institute Memorandum to Pension Members No. 40-00 and Pension Operations Advisory Committee No. 58-00, dated August 2, 2000. 2 concerning the Notice and any other useful approaches the Service might consider regarding the administration of 457(b) plans. Kathy D. Ireland Senior Associate Counsel Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 16027, or call the ICI Library at (202) 326-8304 and request the attachment for memo 16027. Attachment (in .pdf format)

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