

**MEMO# 14934**

July 22, 2002

## **DRAFT INSTITUTE COMMENT LETTER ON PROPOSED REGULATIONS UNDER SECTION 457 OF THE CODE**

[14934] July 22, 2002 TO: PENSION COMMITTEE No. 26-02 PENSION OPERATIONS ADVISORY COMMITTEE No. 46-02 RE: DRAFT INSTITUTE COMMENT LETTER ON PROPOSED REGULATIONS UNDER SECTION 457 OF THE CODE As we previously informed you,<sup>1</sup> the Internal Revenue Service recently issued proposed regulations that would provide comprehensive guidance under section 457 of the Internal Revenue Code. The Institute has prepared a draft comment letter on the proposed regulations, a copy of which is attached. The draft letter generally supports the proposed regulations, but seeks clarification on three points. First, the letter requests clarification that participants in eligible governmental plans who are currently in pay status may change their previously irrevocable payment elections under the provision of the preamble that permits such changes for “participants who are currently entitled to be paid after 2001.” Second, the letter asks that the final regulations clarify that the responsibility to include into income any excess deferrals as a result of participation in multiple plans rests with the participant. Third, the letter requests confirmation that plan-to-plan transfers, including amounts transferred for the purchase of permissive past service credit, should not be reported as distributions on Form 1099-R. In addition, the letter responds to the request in the preamble that commenters address whether the separate account required for amounts rolled over into a 457 plan from another type of plan should be further divided if the rollover amounts originated in different types of plans. The draft letter states that such sub-accounting should not be required, because it is unnecessary and would be confusing to participants and burdensome to plans and their recordkeepers. 1 See Institute Memorandum to Pension Committee No. 16-02 and Pension Operations Advisory Committee No. 32- 02, dated May 9, 2002. 2 Comments on the proposed regulations are due by August 6, 2002. If you have any comments on the draft Institute letter, please contact the undersigned by phone at (202) 371- 5432, by fax at (202) 326-5841, or by e-mail at [kireland@ici.org](mailto:kireland@ici.org) no later than August 1. Kathy D. Ireland Associate Counsel Attachment (in .pdf format)