

**MEMO# 9598**

January 15, 1998

## **IRS OPENS PLAN QUALIFICATION PROGRAM**

1 See Institute Memorandum to Pension Members No. 31-97 and Pension Operations Advisory Committee No. 27-97, dated August 8, 1997. [9598] January 15, 1998 TO: PENSION MEMBERS No. 4-98 PENSION OPERATIONS ADVISORY COMMITTEE No. 2-98 RE: IRS OPENS PLAN QUALIFICATION PROGRAM

The Internal Revenue Service has released Revenue Procedure 98-14, which describes the Service's determination letter program for qualified plans that seek to comply with the changes in qualification requirements made by the Taxpayer Relief Act of 1997 (TRA '97), the Small Business Job Protection Act of 1996 (SBJPA), the Uruguay Round Agreements Act (GATT) and the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). Beginning April 27, 1998, the Service will consider changes required by these laws when it reviews applications for tax-qualification determination letters from pension, profit-sharing and stock bonus plans. Favorable letters issued will contain statement to the effect that the determination takes into account the requirements of GATT and TRA '97, as well as those requirements of SBJPA that are effective before the first day of the first plan year beginning on or after January 1, 1999. Applications for determination letters involving master and prototype (M&P) and regional prototype plans that have not yet been amended to comply with the changes required TRA '97, SBJPA and GATT will be reviewed without taking these changes into account. Because the Service's review of applications under this program will not consider changes in the qualification requirements made by SBJPA that are first effective in a plan year beginning after December 31, 1998, the review will not consider the section 401(k)(12) and 401(m)(11) safe harbors established in the SBJPA or the repeal of section 415(e). The revenue procedure also provides that the remedial amendment period for amending plans for GATT and SBJPA, previously described in Revenue Procedure 97-411, will apply to amendments required by TRA '97. It also states that a plan will not satisfy the "nondiscrimination in amount" safe harbors under section 401(a)(4) for a plan year beginning after December 31, 1996, unless (i) family aggregation rules (Code sections 414(q)(6) and/or 401(a)(17)(A)) are disregarded in the operation of the plan, (ii) the plan is amended within the remedial amendment period to eliminate the family aggregation rules and (iii) the amendment is retroactive to the first day of the plan year. Russell G. Galer Associate Counsel - Pension Attachment Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Library Services Division at (202)326- 8304, and ask for this memo's attachment number: 9598.

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