

MEMO# 12907

December 1, 2000

IRS PUBLISHES SURVEY OF 401(K) PLAN QUALIFICATION FAILURES

[12907] December 1, 2000 TO: PENSION COMMITTEE No. 88-00 PENSION OPERATIONS ADVISORY COMMITTEE No. 89-00 AD HOC COMMITTEE ON IRS GROUP CORRECTION PROGRAM RE: IRS PUBLISHES SURVEY OF 401(k) PLAN QUALIFICATION FAILURES The Internal Revenue Service recently published a survey entitled "Compliance Profile of Section 401(k) Plans: Results of an IRS Survey." The survey summarizes the types of mistakes that are commonly found with respect to 401(k) plans. The attached survey also is available at www.irs.ustreas.gov/prod/bus_info/ep/401k-survey.pdf. The primary purpose of the survey was to identify areas in which 401(k) plans failed to comply with the Code and to obtain information on the size of plans containing such qualification defects. The survey was based on questionnaires answered by IRS Employee Plans field examiners regarding plans examined during 1995 to 1997. A sample of 472 plans was included in the survey, ranging in size from small (under 16 participants) to very large (up to about 287,000 participants). The survey covers a variety of different qualification defects that may occur with respect to 401(k) plans, such as violations relating to (1) rollover eligibility, (2) nondiscrimination testing (e.g., ADP/ACP failures), (3) plan loan rules, (4) hardship distributions, (5) top heavy requirements, and (6) plan contribution limits. Violations involving rollover distributions from qualified plans were the most frequently-reported type of defect. ADP and ACP testing failures were the next most common category of defect. Additionally, the survey found that plans of all sizes contained failures. Fifty-six percent of plans had no violations. Thomas T. Kim Assistant Counsel Attachment (in .pdf format)

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