

MEMO# 17698

June 22, 2004

INSTITUTE LETTER TO TREASURY REQUESTING POSTPONEMENT OF EFFECTIVE DATE FOR RELATIVE VALUE REGULATIONS

[17698] June 22, 2004 TO: PENSION MEMBERS No. 35-04 PENSION OPERATIONS ADVISORY COMMITTEE No. 45-04 RE: INSTITUTE LETTER TO TREASURY REQUESTING POSTPONEMENT OF EFFECTIVE DATE FOR RELATIVE VALUE REGULATIONS The Institute submitted the attached letter to Treasury requesting postponement of the effective date of the final regulations requiring disclosure of the relative values of optional forms of benefit ("relative value regulations"). Section 401(a)(11) generally requires plans to which this section applies to pay (unless properly waived) a vested participant's retirement benefit in the form of a qualified joint and survivor annuity ("QJSA")¹ or to pay, in the case of a participant who dies before the annuity starting date, a qualified preretirement survivor annuity ("QPSA") to the participant's surviving spouse. In addition to defined benefit plans, section 401(a)(11) applies to money purchase plans and certain other defined contribution plans, such as a profit-sharing plan or 401(k) plan that offers participants an annuity option. IRS regulations require that plans must provide notification and disclosure to plan participants regarding the QJSA and QPSA rules. New final regulations applicable to defined benefit plans beginning in 2004 require QJSA explanations to include a description of the relative value of each optional form of benefit as compared to the value of the QJSA. Other disclosure requirements in the final regulations apply to both defined benefit and defined contribution plans, including a description of: (1) each optional form of benefit that is generally available to participants under the plan, its eligibility conditions and other material features; and (2) the financial effect of electing the optional form of benefit (i.e., the amount payable under the form of benefit to the participant during his or her lifetime and the amount payable after the death of the participant). For defined contribution plans, the description of the financial effect of electing an annuity form of payment must include a statement that the benefit will be provided by purchasing an annuity from an insurance company using the participant's account balance. If 1 A QJSA for a married participant is an annuity paid for the life of the participant, with a survivor annuity paid for the life of the participant's spouse that is at least 50% of the amount payable during the participant's lifetime. For an unmarried participant, the QJSA is a benefit paid in the form of a single life annuity. 2 estimates of the annuity amount are being provided, the use of such estimates must be disclosed. The plan must provide a more precise calculation upon a participant's request. The QPSA notice requirements are similar to the QJSA requirements, including (1) a general description of the QPSA; (2) the circumstances under which the QPSA will be paid, if elected; (3) the availability of the QPSA election; and (4) a description of the financial effect

of a QPSA election on the participant's benefit. The explanations must be written in a manner that is calculated to be easily understood by the average plan participant. QJSA and QPSA notices can be delivered by hand or by first class mail to the last known address of the participant. The IRS and Treasury are reviewing the extent to which these notices can be provided to participants electronically. The final regulations are applicable to QJSA explanations for distributions with benefit starting dates on or after October 1, 2004 and to QPSA explanations provided on or after July 1, 2004. However, since QJSA explanations must be provided to participants 30 to 90 days prior to the benefit starting dates, QJSA explanations would need to be revised for delivery to participants as early as July 1, 2004 in order to be available to participants commencing benefits on October 1, 2004. Institute members recently recognized that the QJSA and QPSA requirements affect certain defined contribution plans and will require substantial modifications to plan systems and administrative practices. In the attached letter, the Institute has requested that Treasury postpone the effective date of the final relative value regulations in order to allow defined contribution plan administrators and sponsors adequate time to identify any relevant issues relating to required QJSA and QPSA disclosures and to provide plan participants with necessary information in an accurate and understandable format. Lisa Robinson Assistant Counsel Attachment (in .pdf format) 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 17698, or call the ICI Library at (202) 326-8304 and request the attachment for memo 17698.

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