

MEMO# 10312

September 23, 1998

IRS MODIFIES PLAN QUALIFICATION PROGRAM AND REVISES FORMS

1 See Institute Memorandum to Pension Members No. 4-98 and Pension Operations Advisory Committee No. 2-98, dated January 15, 1998. [10312] September 23, 1998 TO: PENSION MEMBERS No. 59-98 PENSION OPERATIONS ADVISORY COMMITTEE No. 46-98 RE: IRS MODIFIES PLAN QUALIFICATION PROGRAM AND REVISES FORMS

The Internal Revenue Service has released Revenue Procedure 98-53, which modifies the Service's determination letter program for qualified plans as set forth in Revenue Procedure 98-14,¹ and Announcement 98-85, which describes revisions to the forms used to apply for determination letters. Copies of both the revenue procedure and the announcement are attached. Revenue Procedure 98-53 provides that a sponsor of an individually designed pension, profit-sharing or stock bonus plan, including a volume submitter plan, may request that its application for a determination letter be reviewed without taking into account changes in the plan qualification requirements made by the Uruguay Round Agreements Act (GATT), the Small Business Job Protection Act of 1996 (SBJPA), the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), and the Taxpayer Relief Act of 1997 (TRA '97), except for sections 1432 and 1454 of SBJPA, which amended Internal Revenue Code sections 401(a)(26) and 414(n), respectively (a "pre-GATT letter"). A determination letter applicant that wishes to request a pre-GATT letter would so indicate in a cover letter submitted with the application or on the face of the application form. Such a request would not preclude the plan sponsor from incorporating into the plan any provisions reflecting the new law; however, the plan sponsor could not rely upon the pre-GATT letter with respect to provisions of the above-listed statutes except for sections 1432 and 1454 of SBJPA. This modification does not affect the provisions of Revenue Procedure 98-14 that apply to determination letter applications filed by adopters of master and prototype and regional prototype plans or to applications for opinion, notification or advisory letters. The Service has also announced its revision of the forms used to request determination letters for ongoing qualified employee benefit plans. Announcement 98-85 states that revised Forms 5300 (defined benefit plans), 5303 (collectively bargained plans), 5307 (master and prototype, regional prototype or volume submitter plans), and 6406 (minor amendments) contain no significant changes, and that the current versions of each form may be used until further notice. Schedule Q to Form 5300 (Nondiscrimination Requirements) has been revised, however, to incorporate changes to section 401(a)(26) and to clarify item 5 relating to coverage information, and therefore must be used for applications submitted after December 31, 1998. The revised forms and instructions will be available after October 1, 1998.

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