

MEMO# 18949

June 16, 2005

IRS ISSUES PROPOSED AMENDMENTS TO REGULATIONS UNDER SECTION 415 OF THE INTERNAL REVENUE CODE

©2005 Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice. [18949] June 16, 2005 TO: PENSION COMMITTEE No. 23-05 PENSION OPERATIONS ADVISORY COMMITTEE No. 21-05 RE: IRS ISSUES PROPOSED AMENDMENTS TO REGULATIONS UNDER SECTION 415 OF THE INTERNAL REVENUE CODE The Internal Revenue Service has issued proposed comprehensive amendments to regulations under section 415 of the Code, which imposes limits on benefits and contributions under qualified plans.¹ The proposed amendments also include conforming changes to the regulations governing section 403(b) arrangements and section 457 plans. Section 415(c) limits annual additions credited to participants in defined contribution plans to the lesser of \$40,000, or 100 percent of compensation. Under the proposed regulations, the term "compensation" can include certain amounts paid within 2-1/2 months of the employee's severance from employment. First, such amounts generally can be included if they would have been paid while the employee continued in employment, absent the severance from service, and constitute regular compensation for services, or other compensation, such as overtime or shift differentials. Second, payments after severance from employment for accrued bona fide sick, vacation, or other leave can be considered compensation if the employee would have been able to use the leave if employment had continued. The proposed regulations generally would apply to limitation years beginning on or after January 1, 2007; however, plans would be able to apply certain provisions as early as limitation years beginning after the date final regulations are published in the Federal Register. Comments on the proposed amendments are due by July 25, 2005. Please contact me by telephone at (202) 371-5432, by fax at (202) 326-5841, or by email at kireland@ici.org, if you have any comments that the Institute should consider including in a comment letter concerning the proposed amendments. Kathy D. Ireland Senior Associate Counsel 1 The proposed regulations are available at <http://www.regulations.gov/fredpdfs/05-10268.pdf>. 2