

MEMO# 35205

March 20, 2023

ICI Joins Other Trades in Supporting IRS Proposal for Permanent Remote Witnessing and Notarization

[35205]

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TO: Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension

Tax RE: ICI Joins Other Trades in Supporting IRS Proposal for Permanent Remote Witnessing and Notarization

ICI signed the attached letter supporting the recent IRS proposed regulation on "Use of an Electronic Medium to Make Participant Elections and Spousal Consents," which would provide permanent relief from the physical presence requirement for remote witnessing of spousal consent by a plan representative or notary.^[1] As a reminder, the proposal includes conditions very similar to the temporary relief from the physical presence requirement previously granted in Notice 2022-27 and earlier related guidance.^[2] The temporary relief under Notice 2022-27 expired on December 31, 2022, but the IRS indicated that it will permit reliance on the proposed regulation prior to issuance of the final regulation.

The attached letter, signed by several other trade organizations and interested parties, notes that plans have using the remote witnessing relief for almost three years and that the relief has benefited plan participants and beneficiaries in a variety of ways. Further, the letter explains that there is no indication that the relief has led to abuses such as fraud or spousal coercion.

Elena Barone Chism

Deputy General Counsel - Retirement Policy

Notes

^[1] For a summary of the proposal, see ICI Memorandum No. 34806, dated January 13, 2023, available at <https://www.ici.org/memo34806>.

[2] For a summary of Notice 2022-27, see ICI Memorandum No. 34147, dated May 18, 2022, available at <https://www.ici.org/memo34147>.

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