

Notice 2000-63, Comments on Items for Year 2001 Published Guidance Priority List

January 16, 2001

Mr. Joel Rutstein
Office of Special Counsel
Internal Revenue Service
Attn: CC:MSP:RU (Notice 2000-63)
Room 5228
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Notice 2000-63, Comments on Items for Year 2001 Published Guidance Priority List

Dear Mr. Rutstein:

On behalf of the American Society of Pension Actuaries (ASPPA) we are writing to offer suggestions on the priorities for guidance under the 2001 guidance priority list issued jointly by Treasury and IRS.

ASPPA is a national organization of over 4,000 members who provide actuarial, consulting, administrative, legal and other professional services for about one-third of the qualified retirement plans in the United States, the majority of which are maintained by small businesses. ASPPA's mission is to educate pension actuaries, consultants, administrators and other benefits professionals and to preserve and enhance the private retirement system as part of the development of a cohesive and coherent national retirement income policy.

ASPPA's recommendations for new or additional guidance (in the form of Regulations Revenue Procedures or informal guidance as appropriate) to be issued under the 2001 guidance priorities plan are as follows:

§ Education through TE/GE outreach programs for plan sponsors and practitioners highlighting the importance of plan qualification, explaining the consequences of disqualification and how to apply EPCRS to avoid disqualification, and providing a checklist for reviewing compliance issues (we would be pleased to provide assistance in preparation of a compliance checklist);

§ An update of Rev. Proc. 2000-16 to amplify general guidance for voluntary compliance under EPCRS, and to add guidance on deductibility of restorative payments and corrective contributions, and to allow plan sponsors to use reformative amendments under APRSC in certain circumstances (please refer to our comment letter on EPCRS dated September 11, 2000, a copy of which is attached);

§ Develop a voluntary correction program for SEPs and SIMPLEs;

§ Develop a voluntary correction program for 457 plans;

§ Clarification as to the treatment of overlapping controlled groups, overlapping affiliated service groups, and a controlled group that overlaps with an affiliated service group;

§ Guidance on the post-SBJPA treatment of leased employees under Code Section 414(n)

§ Guidance on the treatment of Professional Employer Organizations (PEOs) for employee benefit purposes;

§ Consolidation of the guidance relating to cash or deferred arrangements under Section 401(k), including expansion of the guidance regarding application of the break in service rules to 401(k) plans;

§ Guidance relating to application of Section 414(q) specifically in a merger or acquisition setting;

§ Guidance relating to application of Section 401(m) with regard to cash or deferred arrangements including 403(b) plans;

§ Withdrawal of the multiple use test requirement under Section 401(k) regulations;

§ Guidance on impact of the Electronic Signature Act on plan administration, including record keeping requirements, participant elections, distribution elections and spousal consents to loans and distributions;

§ Additional guidance on participant loans for defined benefit plans and for defined contribution plans that do not have participant directed accounts;

§ Guidance on the transfer of accrued benefits in a defined benefit plan to a Section 414(k) account, addressing specifically the 415 limitations applicable to the account, spousal consent requirements for transfer of the benefit to the account and continued application of the qualified joint and survivor annuity requirements to the account;

§ Guidance on the application of excise tax on reversions to the sale of a business which sponsors an overfunded defined benefit pension plan where a significant portion of the purchase price for the business is attributable to the excess assets in the pension plan;

§ Finalize the 401(a)(9) minimum distribution rules;

§ Clarification of the definition of Employer for tax-exempt organizations;

§ Regulations and guidance for 403(b) plans;

The principal authors of these comments were Theresa Lensander, Administration Relations Chair, Government Affairs Committee, ASPPA, and Jeffrey Chang, Chair, IRS Committee, Government Affairs Committee, ASPPA.

Please contact us if you have any comments or questions with regard to our ideas for proposed guidance.

Very truly yours,

Theresa Lensander, CPC, QPA
Chair, Administration Relations

Jeffrey C. Chang, Esq.
Chair, IRS Committee

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CC: Ms. Carol Gold, Mark Iwry, Ms. Joyce Kahn, Mark O'Donnell, Richard J. Wickersham, and Alan Tawshunsky

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