



CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

October 14, 2003

Number: **INFO 2004-0062**
Release Date: 3/31/04
CONEX-15641-03/CC:TEGE:EBQP:2
UIL No: 457.07-00 402.08-00

Attention:

Dear

This letter responds to your inquiry of September 8, 2003, addressed to Floyd Williams, Director, Office of Legislative Affairs. You forwarded an inquiry from your constituent, _____, who wrote about section 457(b) of the Internal Revenue Code (the Code) governing the taxation of amounts deferred into eligible deferred compensation plans sponsored by tax-exempt employers or by state or local governments.

She asked that the rules concerning distributions from section 457(b) plans of tax-exempt organizations be changed so that certain distributions can be rolled over into an individual retirement account (IRA) or another eligible retirement plan like similar distributions from section 457(b) plans sponsored by state and local governments. These are provisions that the Congress enacted into law as part of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), Pub. L. No. 107-16. This law provides that, after 2001, individuals may roll over governmental (but not tax-exempt entities') section 457 plan distributions which qualify as "eligible rollover distributions" into an IRA, or to an eligible retirement plan such as a section 401(k) plan or a section 403(b) plan.¹ Because these are statutory provisions, the IRS cannot change them until the Congress enacts an amendment to these rollover rules.

As the Treasury Department helps the President determine whether to sign

¹ An eligible rollover distribution is any distribution from a governmental section 457(b) plan, a qualified pension plan (including a section 401(k) plan), or a section 403(b) tax-sheltered annuity that is neither a) a minimum required distribution nor b) one of a series of substantially equal periodic payments made over the participant's life expectancy or a specified period of 10 or more years.

amendments to the tax law, such as the suggested change to the rollover provision, I am sending a copy of your letter to the Benefits Tax Counsel at the Treasury Department.

For your information, I have enclosed a copy of the portion of the Congressional Committee report concerning the EGTRRA which clarifies that the rollover provisions concern governmental section 457(b) plans. I hope this information, including the Congressional report, is helpful. If you need more information, please contact me or

Sincerely,

Robert D. Patchell
Branch Chief, Qualified Plans 2
Office of Division Counsel/Associate Chief Counsel
(Tax Exempt and Government Entities)

Enclosure