



CHIEF COUNSEL

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

June 30, 2008

Number: **INFO 2008-0028**

Release Date: 9/26/2008

CONEX-126300-08

UIL: 62.02-05

The Honorable Robert Bennett
United States Senate
Washington, DC 20510

Dear Senator Bennett:

I am responding to a letter dated May 23, 2008 to Secretary Paulson, signed by you and your colleagues, requesting that we include specific guidance on the application of the accountable plan rules to tool reimbursement plans on our next priority guidance plan. We are currently considering guidance projects for inclusion on the 2008-2009 Priority Guidance Plan.

As the lawyers for _____ know, guidance can take many forms. For example, in 2005, we issued Revenue Ruling 2005-52 that addressed the tax consequences of a typical tool reimbursement plan under Treasury Department regulations. At the present time, we are in the process of finalizing a revised Coordinated Issue Paper (CIP) originally issued to the motor vehicle industry in 2000 to reflect changes in tool reimbursement plans as we have seen them to date. We expect the IRS will shortly release the CIP publicly. We believe it will provide helpful guidance to both your constituent and other persons involved with tool plans on the application of the law to these plans and the types of facts that are relevant to the determination of whether the plans comply with the requirements for accountable plans under section 62(c).

Whether an expense reimbursement arrangement qualifies as an accountable plan depends on the specific facts of how the arrangement is operated. The IRS is currently conducting examinations that focus on whether the use of tool plans has in some cases resulted in failure to pay appropriate amounts of federal income tax withholding and Federal Insurance Contributions Act tax. The IRS Office of Chief Counsel has released publicly redacted formal legal advice related to these examinations, giving taxpayers access to our legal reasoning. We will continue to consider whether published guidance

or further written legal advice might address the questions your constituent has raised as well as other questions presented by the array of fact patterns we are encountering.

I hope this information is helpful. I am sending a similar letter to your colleagues. Please contact me or call _____, Director, Office of Legislative Affairs, at () if you need further assistance.

Sincerely,

Donald Korb



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The Honorable Rob Bishop
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Bishop:

I am responding to a letter dated May 23, 2008 to Secretary Paulson, signed by you and your colleagues, requesting that we include specific guidance on the application of the accountable plan rules to tool reimbursement plans on our next priority guidance plan. We are currently considering guidance projects for inclusion on the 2008-2009 Priority Guidance Plan.

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The Honorable Chris Cannon
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Cannon:

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CONEX-126300-08

UIL: 62.02-05

The Honorable Orrin G. Hatch
United States Senate
Washington, DC 20510

Dear Senator Hatch:

I am responding to a letter dated May 23, 2008 to Secretary Paulson, signed by you and your colleagues, requesting that we include specific guidance on the application of the accountable plan rules to tool reimbursement plans on our next priority guidance plan. We are currently considering guidance projects for inclusion on the 2008-2009 Priority Guidance Plan.

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The Honorable Jim Matheson
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Matheson:

I am responding to a letter dated May 23, 2008 to Secretary Paulson, signed by you and your colleagues, requesting that we include specific guidance on the application of the accountable plan rules to tool reimbursement plans on our next priority guidance plan. We are currently considering guidance projects for inclusion on the 2008-2009 Priority Guidance Plan.

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