



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

MAR 17 2004

J. Mark Iwry
1775 Massachusetts Avenue, N.W.
Washington, D.C. 20036-2188

Dear Mr. Iwry:

This general information letter responds to your request, dated December 15, 2003, for information regarding the use of automatic compensation reduction elections (also known as "automatic enrollment"), as described in Revenue Rulings 2000-8, 2000-1 C.B. 617, and 2000-35, 2000-2 C.B. 138 (the "Rulings"); Announcement 2000-60, 2000-2 C.B. 149; and section 1.401(k)-1(a)(3)(ii) of the Proposed Income Tax Regulations.

Section 3.06 of Revenue Procedure 2004-4, 2004-1 I.R.B. 125, describes a general information letter as a statement issued by the Internal Revenue Service that calls attention to a well-established interpretation or principle of tax law without applying it to a specific set of facts.

As used in this general information letter, the terms "automatic compensation reduction election" (in contrast to an "affirmative election"), "compensation reduction contribution," and "compensation reduction percentage" are intended to have the same meanings those terms have when used in Revenue Ruling 2000-8.

The compensation reduction percentage pursuant to an automatic compensation reduction election under an Internal Revenue Code ("Code") section 401(k) plan or a Code section 403(b) tax-sheltered annuity or custodial account is permitted to be any percentage of compensation that would be permitted in the case of an elective contribution or elective deferral made pursuant to an affirmative, explicit election (i.e., in which the default is no elective contribution or elective deferral). Accordingly, there is no special maximum limit on the automatic compensation reduction percentage and no safe harbor automatic compensation reduction percentage. The holdings in the Rulings therefore would be equally applicable to each of the plans described in the Rulings if the automatic compensation reduction percentage under the plan were any percentage greater or less than the percentages specified in the Facts sections of the Rulings. Thus, for example, the automatic compensation reduction percentage need not be limited to the percentage of compensation that limits, under the plan, the amount of elective contributions or elective deferrals that are matched by employer matching contributions. Of course the amount of an elective contribution or elective deferral is

subject to the limitations imposed under or as a result of sections 401(a), 401(k)(3), 402(g), 403(b), 415, and any other applicable provision of the Code.

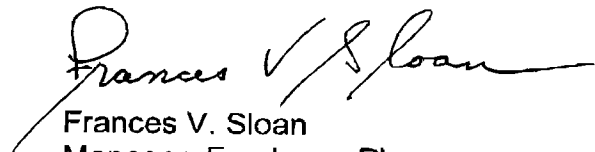
The analysis and the holdings in the Rulings would be equally applicable to the plans described in the Rulings if the automatic compensation reduction percentage under each plan increased or otherwise changed over time, pursuant to a specified schedule. However, this would be the case only if the notices provided to employees (explaining the automatic compensation reduction election and the employee's right to elect to have no such compensation reduction contributions made to the plan or to alter the amount of those contributions, including the procedure for exercising that right and the timing for implementation of any such election) described the amounts and timing of any planned changes to the automatic compensation reduction percentage.

The analysis and the holdings in the Rulings would be equally applicable to the plans described in the Rulings if the automatic compensation reduction election under each plan, or an increase in the automatic compensation reduction percentage, applied in part or in whole to one or more future increases in or supplements to compensation (including pay raises and bonuses) or if the automatic compensation reduction election or increase in percentage was conditioned on or scheduled to take effect at the time of such compensation increases or supplements. However, this would be the case only if each of the notices provided to employees (explaining the automatic compensation reduction election and the employee's right to elect to have no such compensation reduction contributions made to the plan or to alter the amount of those contributions, including the procedure for exercising that right and the timing for implementation of any such election) described how the automatic compensation reduction election would apply to any such future compensation increases or supplements.

We hope this general information will be helpful to you. However, the information provided in this letter is not a ruling and may not be relied on as such.

If you have any questions concerning this letter, please contact Susan Taylor, ID # 50-07189 at (202) 283-9640.

Sincerely,



Frances V. Sloan
Manager, Employee Plans
Technical Group 3