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## **1993 RETIREMENT PLAN ACTION**

**By: Matt W. Zeigler, Esq.**

The Internal Revenue Service did promise that your retirement plan would not have to be amended, excepting, of course, in the event that Congress changed the law. Well, Congress did, and, during the 1993 plan year, your retirement plan will have to be amended.

The "Unemployment Compensation Amendments of 1992" (Public Law 102-318) ("Act") was signed into law on July 3, 1992 by President Bush and added section 401(31) to the Internal Revenue Code. This new section has mandated that each qualified retirement plan be amended to comply with the new 20% mandatory tax withholding requirements on distributions made to plan participants. The only way to effectively avoid the new withholding rules for a terminating plan participant is to elect a direct trustee-to-trustee transfer or rollover of all or a portion of his or her account balance; i.e. the check is made payable to an Individual Retirement Plan custodian, like, a bank or a brokerage house.

Each qualified retirement plan must comply with these new rules in actual operation of the plan commencing January 1, 1993. Your advisors should have the new necessary forms required to give terminating plan participants the necessary IRS Model Notice of the new tax withholding requirements not later than 30 days prior to the date of distribution and not earlier than 90 days prior to the date of an eligible rollover distribution. Your plan administrator should also have a new distribution election form.

The IRS has now published Model Plan Amendment language for use by plan sponsors to amend their qualified plans. Further, these actual plan amendments for Master, Prototype Plans and Regional Prototype Plans utilizing the model amendment, published by IRS, must adopt the plan amendment on or before December 31, 1993. Other plans, such as individually designed plans, must operationally comply with the new rules also effective January 1, 1993, but they have until December 31, 1994 to actually adopt the text of an amendment to their retirement plan.

Good News! Plans adopting the IRS Model Amendment will not have to be submitted to the IRS for a favorable determination letter and will not have to pay an IRS User Fee.