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January 21, 2003

The Honorable Pamela F. Olson
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Robert E. Wenzel
Acting Commissioner
Internal Revenue Service
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Washington, DC 20224

Re: Employee Benefit Simplification

Ladies and Gentlemen:

I am pleased to enclose the New York State Bar Association Tax Section's Report No. 1026, *Simplification of the Internal Revenue Code: Individual Retirement Arrangements, Qualified Retirement Plans, and Employee Benefits*.

Last March the Tax Section submitted a report on simplification of the Internal Revenue Code. While 2002 was not a year in which significant simplification legislation was enacted, we hope that 2003 will be different in this regard. We termed our 2002 report a "down payment" on what we hope will be a substantial contribution to efforts to simplify the U.S. income tax system. We view this report as a "second installment" and look forward to further contributions as we respond to legislative and regulatory initiatives and requests for comment that emerge during this year.

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The aspects of the Internal Revenue Code that govern employee benefit arrangements are surely among those most eligible for simplification. The benefits area contains so many disparate options, each subject to its own peculiar requirements and limitations, and is so technically obscure, that it is understood only by a small cadre of employee benefit specialists. The Staff of the Joint Committee on Taxation has written that the federal pension laws “are recognized as among the most complex set of rules applicable to any area of the tax law.” We believe this complexity is particularly problematic in an area that directly affects the average American worker.

The report is divided into three parts. The first part describes simplification that could be achieved by rationalizing the classification scheme for employee benefit plans under the Code. The different categories of tax-favored retirement arrangements increase complexity in the pension rules, because different rules apply to each type of arrangement.

The second part of the report concentrates on the rules applicable to individual retirement accounts and to distributions from qualified plans, which are at once among the most complicated of the complicated benefit provisions and, unfortunately, among those most likely to be faced by individual taxpayers.

Finally, we present a large number of technical suggestions for simplifying the welter of rules presently applicable under the Code to qualified retirement plans, as well as some other types of employee benefit plan.

We would welcome the opportunity to comment on legislation addressing the need for simplification in this all too complex area.

Respectfully submitted,



Samuel J. Dimon
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