

Proposed Regulations – Section 125 Cafeteria Plans

The IRS issued long awaited proposed cafeteria plan regulations under Internal Revenue Code Section 125 in early August. The new proposed regulations withdraw the previously issued cafeteria plan regulations, 1.125-1 and 1.125-2, replace them with a fresh set of proposed regulations which restate much of the old regulations and incorporates guidance issued over the last 23 years. The new proposed regulations are not effective until plan years beginning on or after January 1, 2009.

Our initial review indicates the area that appears to have been changed the most is the discrimination testing guidance. We will continue to review and analyze all aspects of the new proposed regulations over the next several months keeping you informed of any significant changes. There are a number of comments that were submitted for review at the IRS hearing in November. When we become aware of the results of the hearing, we will pass on pertinent information. There will be no changes to our administrative practices until the final regulations are issued.