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December 17, 2012

Yvette Lawrence
Internal Revenue Service
Room 6129
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Notice and Request for Comments on SIMPLE IRA Guidance

Dear Ms. Lawrence:

The Investment Company Institute provides these comments in response to the solicitation in 77 Fed. Reg. 63925 (Oct. 17, 2012) concerning the extension of the information collection requests in Notice 98-4, Form 5304-SIMPLE and Form 5305-SIMPLE. Our comments focus on the utility of certain information required to be provided to employers sponsoring or employees participating in SIMPLE IRA plans. Although we understand that no changes are being proposed with respect to the Notice and Forms at this time, we recommend consideration of the following changes, which would be beneficial to administration of SIMPLE IRA plans.

Withdrawal Procedures

Notice 98-4 and Forms 5304-SIMPLE and 5305-SIMPLE require a financial institution to provide the employer a summary description of the plan that includes the institution's procedures for withdrawals and transfers from SIMPLE IRAs (and this summary information must in turn be passed on by the employer to the employee). For the most part, the summary description can be satisfied by sending a copy of the Form 5304 or 5305, as applicable. However, the institution's procedures for withdrawals and transfers must be either attached or otherwise added to the Form under Article VI. Some financial institutions have noted that there is very limited space under Article VI and their withdrawal procedures do not fit in the space provided. Because withdrawal procedures typically are stated in the IRA trust and disclosure document (or custodial agreement) provided to the employee at the establishment of the SIMPLE IRA, and also are easily obtained from the financial institution at any time, the utility of providing this information each year on, or attached to, the summary disclosure appears to be low. Attaching or inserting this information requires additional resources, time and cost to the financial institution which may not be outweighed by any benefits to the employee. Accordingly, we suggest eliminating the requirement to attach or otherwise include the financial institution's procedures for withdrawal and transfer on the form and summary description. Instead, guidance could

state that the financial institution must identify on the form where procedures for withdrawal and transfer can be located.

Providing Form 5304-SIMPLE to Employers

In the case of employers that do not use a designated financial institution (DFI), and therefore use Form 5304-SIMPLE to establish a SIMPLE IRA plan, we believe the IRS should reconsider the requirement for each financial institution to provide the employer with the summary description described above. Unlike situations where an employer has chosen one financial institution as its DFI and will therefore receive a single Form 5305 from the DFI each year, an employer who has not chosen a DFI may receive multiple Forms 5304 from the various financial institutions in which its employees invest. This results in duplicate Forms 5304 being mailed to the same employer, even though the employer only needs one Form 5304 to establish or maintain the plan. The receipt of duplicate Forms 5304 not only creates confusion for employers, but also presents a time consuming and costly practice for those financial institutions that are required to provide Form 5304 to employers where they are not the DFI, without any apparent utility. These employers can easily obtain Form 5304-SIMPLE from the IRS and we believe this change would result in substantial cost savings collectively.

Terminated or Suspended Plans

A third issue relating to the annual summary description involves plans that are dormant and possibly terminated. It is unclear under what circumstances a financial institution should reasonably be allowed to stop sending these mailings, for example when the plan has been dormant for some time and the financial institution is not receiving any new contributions to the accounts. In some cases, the employer may notify the financial institution that it has “terminated” the SIMPLE IRA plan, but in other cases there may be no communication at all. Because IRAs are not required to be liquidated after a SIMPLE IRA plan is terminated (unlike with a 401(k) plan account), many financial institutions holding SIMPLE IRAs are left in the dark and continue to send annual mailings to the employer without a clear obligation. We request guidance clarifying the circumstances under which a financial institution could stop sending annual summary descriptions. For example, guidance could provide (as one potential solution) that where the financial institution has not received any contribution to a SIMPLE IRA for three years, the financial institution may consider the plan terminated for purposes of the annual disclosure requirement. Such a clarification would, of course, not impact or change the financial institution’s obligations to otherwise maintain the account as required by applicable law.

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We appreciate your consideration of these matters. Please do not hesitate to contact the undersigned at 202-326-5821 if you would like to discuss our recommendations further.

Sincerely,



Elena Barone Chism
Associate Counsel – Pension Regulation

cc: Roger S. Kuehnle, Internal Revenue Service