

Snow Letter to Boehner and Gregg Regarding Notice 96-08

Document Date: December 4, 2003

DEPARTMENT OF THE TREASURY
SECRETARY OF THE TREASURY
WASHINGTON, D.C.

December 4, 2003

The Honorable John A. Boehner
Chairman
Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Boehner:

Thank you for your letter regarding IRS Notice 96-8. I share your concern that Notice96-8 reaches the wrong policy result. While Notice 96-8 may have been well-intentioned,its effect is harmful to both sponsoring companies and their employees. In my view, the notice undermines the defined benefit plan system, which millions of American workers and their families rely on for their retirement income security. However, there has been one more circuit court case, Berger v. Xerox Corp. Retirement Income Guarantee Pan,which has followed two other circuit court opinions in upholding the analysis in Notice96-8. In light of these cases, we are determining whether the proper approach should be to propose legislation which would change the statute specifically to permit plan sponsors to provide a higher interest rate on participants' cash balance accounts.

The recent actions by various U.S. courts have raised issues, however, for us in addressing the matter directly. We are continuing to review how best to proceed and I appreciate your sharing your concerns.

Sincerely,

John W. Snow

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DEPARTMENT OF THE TREASURY
SECRETARY OF THE TREASURY
WASHINGTON, D.C.

December 4, 2003

The Honorable Judd Gregg
Chairman
Committee on Health, Education, Labor and Pensions
United States Senate
Washington, DC 20510-6300

Dear Chairman Gregg:

Thank you for your letter regarding IRS Notice 96-8. I share your concern that Notice96-8 reaches the wrong policy result. While Notice 96-8 may have been well-intentioned,its effect is harmful to both sponsoring companies and their employees. In my view, the notice undermines the defined benefit plan system, which millions of American workers and their families rely on for their retirement income security. However, there has been one more circuit court case, Berger v. Xerox Corp. Retirement Income Guarantee Pan,which has followed two other circuit court opinions in upholding the analysis in Notice96-8. In light of these cases, we are determining whether the proper approach should be to propose legislation which would change the statute specifically to permit plan sponsors to provide a higher interest rate on participants' cash balance accounts.

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