

Legal Alert: Prototype and IRA Amendment Relief

December 7, 2005

In response to concerns about the interaction of procedural and substantive guidance with respect to the timing of qualified plan amendments, the Service published clarifying guidance and transitional relief in [Notice 2005-95](#) on December 2, 2005. The Notice included the following relief for prototype 401(a)/401(k) and IRA plans:

- IRA sponsors are not required to update references in individual retirement annuity endorsements to the section 1.401(a)(9)-6T regulations. If sponsors do elect to update the references to reflect the issuance of the final regulations, that amendment will not affect continued reliance on an IRA opinion letter.
- Sponsors of master, prototype and volume submitter 401(a)/401(k) plans may adopt good faith amendments to effect a range of qualification changes specified in the Notice without compromising the approved status of those plans.
- Following the publication of the pending section 401(k) regulations in final form, the Service will provide a sample amendment providing for the optional treatment of elective contributions as designated Roth contributions.

■ ■ ■

Please contact any of the following members of our Employee Benefits and Executive Compensation practice if you have any questions regarding these regulations:

George H. Bostick	202.383.0127	george.bostick@sablaw.com
Adam B. Cohen	202.383.0167	adam.cohen@sablaw.com
Ian A. Herbert	202.383.0644	ian.herbert@sablaw.com
Alice Murtos	404.853.8410	alice.murtos@sablaw.com
Robert J. Neis	404.853.8270	robert.neis@sablaw.com
W. Mark Smith	202.383.0221	mark.smith@sablaw.com
William J. Walderman	202.383.0243	william.walderman@sablaw.com
Carol A. Weiser	202.383.0728	carol.weiser@sablaw.com
Brendan M. Wilson	202.383.0740	brendan.wilson@sablaw.com
Walter H. Wingfield	404.853.8161	walter.wingfield@sablaw.com