



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

May 15, 2007

ASSISTANT SECRETARY

The Honorable Jim McCrery
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515-6348

Dear Mr. McCrery:

Thank you for your letters of April 26, 2007, to Secretary Paulson and Commissioner Everson regarding the interpretation of section 845 of the Pension Protection Act of 2006 (codified in section 402(l) of the Internal Revenue Code). After consulting with the Office of Tax Policy at Treasury and the Office of the Chief Counsel at the IRS, I want to provide you with the following response to your letter.

IRS Notice 2007-7 addresses a number of interpretive questions concerning recent changes in law under the Pension Protection Act of 2006, including the addition of PPA section 845, which provides an exclusion from gross income for up to \$3,000 annually for distributions from an eligible governmental retirement plan that are paid directly to an insurer as qualified health insurance premiums for an eligible retired public safety officer or his or her spouse or dependent. Under the provision, the term "qualified health insurance premiums" means premiums for coverage under "an accident or health insurance plan or qualified long-term care insurance contract." Based on our interpretation of this provision, Q&A-23 of Notice 2007-7 states that the exclusion does not apply to an accident or health plan that is self-funded (i.e., self-insured).

You indicated that section 845 was intended to apply to premiums to self-funded plans as well as insured plans. You further indicated that you intend to include a clarifying technical correction to that effect in the technical corrections bill currently being developed. With that in mind, Treasury and the IRS will interpret the term "qualified health insurance" in PPA section 845 in the same manner as the term "accident or health plan" in section 105 of the Internal Revenue Code and applicable Treasury regulations. Thus, in anticipation of the technical correction, "qualified health insurance" will include employer-provided coverage under both insurance or an employer's self-funded plan. We intend to issue a formal announcement of this administrative position in the near future.

Thank you for providing your input on this important issue for retired public safety officers.

Sincerely,

Kevin I. Fromer
Assistant Secretary
for Legislative Affairs