

MEMO# 11420

November 22, 1999

INSTITUTE SUBMITS COMMENT LETTER TO IRS CONCERNING VOLUNTARY CORRECTION PROGRAM

1 See Institute Memorandum to Pension Members No. 29-99, dated August 9, 1999. 2 For prior drafts of the Institute's comment letter, see Institute Memorandum to Pension Committee No. 59-99 and September 16th Conference Call Registrants, dated October 13, 1999, and Institute Memorandum to Pension Committee No. 64-99 and September 16th and October 27th Conference Call Participants, dated November 8, 1999. [11420] November 22, 1999 TO: PENSION COMMITTEE No. 66-99 SEPTEMBER 16TH AND OCTOBER 27TH CONFERENCE CALL PARTICIPANTS RE: INSTITUTE SUBMITS COMMENT LETTER TO IRS CONCERNING VOLUNTARY CORRECTION PROGRAM

On November 19, 1999, the Institute submitted a comment letter to the Internal Revenue Service regarding Revenue Procedure 99-31, which provides supplemental guidance on the Service's Employee Plans Compliance Resolution System (EPCRS). As discussed in a previous memorandum,¹ the guidance provides examples of correction methods to address various operational failures for plans participating in the APRSC, VCR and CAP programs. The Institute's comment letter was developed from initial member comments received on a September 16th conference call and subsequent comments to drafts of the letter, ² including those received during an October 27th conference call. Comments to the Revenue Procedure were due by November 21, 1999. The Institute's letter makes several general comments concerning EPCRS as a whole and a number of specific comments regarding certain aspects of the Revenue Procedure. The general comments request that the Service (1) set forth additional general correction principles, (2) inform the public of previously-approved correction methods, and (3) expand the voluntary correction program to include a "group" program for service providers and to address "orphan" or "abandoned" retirement plans. The Institute's specific comments regarding Revenue Procedure 99-31 recommend that the Service (1) modify the existing de minimis corrective distribution exception and add a de minimis corrective allocation exception, (2) modify the rules relating to correction of overpayments, (3) clarify the correction methods available for hardship distribution failures, and (4) modify and expand the Revenue Procedure's earnings adjustment guidance. A copy of the comment letter is attached. Thomas T. Kim Assistant Counsel
Attachment

should not be considered a substitute for, legal advice.