

**MEMO# 3790**

May 19, 1992

# **PROPOSED SUBSTANTIATION GUIDELINES UNDER NONDISCRIMINATION RULES**

May 19, 1992 TO: PENSION COMMITTEE NO. 19-92 RE: PROPOSED SUBSTANTIATION  
GUIDELINES UNDER NONDISCRIMINATION RULES

Attached is a copy of IRS Announcement 92-81, which contains a proposed revenue procedure which would simplify plan sponsors' substantiation of compliance with the nondiscrimination rules of sections 401(a)(4) and 410(b) of the Code, and regulation section 1.414(s)-1(d)(3). The proposed revenue procedure would simplify substantiation in four respects. First, plan sponsors that do not have precise data available at reasonable cost would be permitted to use a reliable substitute. Second, plan sponsors would be able to substantiate compliance using "snapshot" testing on a single representative day during the plan year. Third, plan sponsors could use a simplified method for determining highly compensated employees as of the "snapshot" day. Fourth, plan sponsors would not be required to test a plan more than once every three years in the absence of "significant change" subsequent to the test. The proposed revenue procedure would not generally be available for ADP and ACP testing under sections 401(k) and 401(m) of the Code, but plan sponsors could use the simplified method of identifying highly compensated employees, with certain modifications. We will keep you informed of further developments. Kathy D. Ireland Associate Counsel - Pension Attachment

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