

MEMO# 1711

February 20, 1990

IRS ISSUES TEMPORARY AND PROPOSED REGULATION CONCERNING WITHHOLDING UPON PENSION PAYMENTS TO NONRESIDENT ALIENS

February 20, 1990 TO: PENSION MEMBERS NO. 7-90 TAX MEMBERS NO. 9-90 OPERATIONS MEMBERS NO. 6-90 TRANSFER AGENT ADVISORY COMMITTEE NO. 5-90 RE: IRS ISSUES TEMPORARY AND PROPOSED REGULATION CONCERNING WITHHOLDING UPON PENSION PAYMENTS TO NONRESIDENT ALIENS

_____. Attached is a copy of an IRS temporary and proposed regulation concerning withholding requirements for pension payments to nonresident aliens under section 1441 of the Internal Revenue Code. The regulation was issued in response to section 864(c)(6), as added by the 1986 Tax Reform Act, which treats deferred compensation as "effectively connected income" if attributable to a year in which the nonresident alien was engaged in a U.S. trade or business. Under the temporary and proposed addition to the regulations under section 1441, payments made to a nonresident alien from a qualified plan under section 401(a) are subject to withholding under section 1441 if the individual has elected out of pension withholding pursuant to section 3405(a)(2) or (b)(3). The temporary regulation is effective for payments made after February 26, 1990. We will keep you informed of further developments. Kathy D. Ireland Associate General Counsel Attachment