

MEMO# 1303

August 1, 1989

DEPARTMENT OF LABOR ADVISORY OPINION CONCERNING BANK'S PROVISION OF FREE CHECKING FOR IRA PARTICIPANTS

August 1, 1989 TO: PENSION MEMBERS NO. 36-89 RE: DEPARTMENT OF LABOR ADVISORY
OPINION CONCERNING BANK'S PROVISION OF FREE CHECKING FOR IRA PARTICIPANTS

In 1983, the Internal Revenue Service and the Department of Labor proposed a class exemption from the prohibited transaction provisions of the Internal Revenue Code with respect to the receipt of certain premiums, gifts, or other consideration paid to an individual in connection with a transaction involving a Keogh or IRA account. The Institute objected to this proposed class exemption, arguing that the receipt of a gift or premium tends to distort the factors upon which a long-term retirement investment decision should be based. (See Institute Memoranda to Pension Members Nos. 5-83 and 33-83, dated February 8, 1983 and October 3, 1983, respectively.) The proposed class exemption has never been finalized. Attached is a copy of ERISA Advisory Opinion No. 89-12A, which addresses an IRA participant's receipt of free checking account services from a bank based upon his maintaining his IRA at the bank. The advisory opinion concludes that the receipt of such services would constitute a violation of section 4975(c)(1) of the Code. We will keep you informed of further developments. Kathy D. Ireland Assistant General Counsel Attachment

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