

MEMO# 1198

June 8, 1989

IRS NOTICE CONCERNING MODEL CASH OR DEFERRED ARRANGEMENT

June 8, 1989 TO: PENSION MEMBERS NO. 28-89 RE: IRS NOTICE CONCERNING MODEL CASH OR DEFERRED ARRANGEMENT _____ In Notice 87-34, the IRS published a model amendment for use by sponsors of master or prototype profit-sharing plans to incorporate a cash or deferred arrangement (CODA) under section 401(k) of the Code. Notice 87-51 amended the model amendment's hardship provisions and provided certain optional amendments. (See Institute Memoranda to Pension Members Nos. 22-87 and 38-87, dated May 14 and August 18, 1987, respectively.) Attached is a copy of Notice 89-68, which provides a cut-off date for adoption by sponsoring organizations of the model CODA amendment. The notice announces that the IRS has decided to discontinue the model CODA program, and will no longer give any special priority or reliance to plans submitted pursuant to Revenue Procedure 89-9 simply because the plan includes language identical to the model CODA. In addition, no applications for opinion letters on the model CODA will be accepted after October 31, 1989. Sponsoring organizations that have received opinion letters concerning the model CODA may continue to market the CODA until the IRS issues an opinion letter concerning a replacement plan, provided that the replacement plan is submitted for IRS review prior to November 1, 1989. The notice also contains additional options under the model CODA concerning hardship distributions, recharacterization, the use of elective deferrals in the average contribution percentage test, and the calculation of income or loss on excess amounts. Sponsoring organizations that have already adopted the model CODA may add any or all of the optional provisions on a word-for-word basis and continue to rely on their opinion letter without further application to the IRS. We will keep you informed of further developments. Kathy D. Ireland Assistant General Counsel Attachment