

MEMO# 2189

September 19, 1990

ADDITIONAL IRS PROPOSED REGULATIONS REGARDING NON- DISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

September 19, 1990 TO: PENSION MEMBERS NO. 35-90 RE: ADDITIONAL IRS PROPOSED
REGULATIONS REGARDING NON- DISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

The Internal Revenue Service recently released the attached proposed regulations supplementing the Service's previously proposed regulations concerning non-discrimination, minimum participation and other qualified plan requirements. (See Institute Memorandum to Pension Members No. 25-90, dated May 17, 1990.) These proposals may be useful to firms which provide qualified retirement plan recordkeeping and administrative services under which a determination must be made as to whether plans satisfy the discrimination rules applicable to them. The proposed regulations clarify that the use of the safe harbors under the 401(a)(4) regulations proposed earlier this year are not precluded by certain plan provisions. They also provide a proposed safe harbor for defined contribution plans with uniform allocation formulae weighted for age or service. Guidance regarding restructuring plans into component plans that separately satisfy sections 401(a)(4) and 410(b) is also provided. The regulations contain specific guidance regarding restructuring plans subject to sections 401(k) and (m). Finally, the regulations clarify the minimum coverage proposals previously published under section 410(b) in the area of separate testing of ESOPs. We will keep you informed of further developments. W. Richard Mason Assistant General Counsel

Attachments