

MEMO# 4157

October 8, 1992

PENSION PROVISIONS OF REVENUE ACT OF 1992

October 8, 1992 TO: PENSION MEMBERS NO. 26-92 OPERATIONS MEMBERS NO. 38-92
TRANSFER AGENT ADVISORY COMMITTEE NO. 59-92 RE: PENSION PROVISIONS OF REVENUE
ACT OF 1992 _____ The Senate today
approved the conference version of H.R. 11, which was passed by the House on October 6.
The following memorandum summarizes those pension provisions included in the
conference agreement. If the President does not sign the bill within ten days after receiving
it, it will not become law. Anyone interested in obtaining copies of relevant Conference
Report and bill language may do so by calling the undersigned at (202) 955-3516.

Individual Retirement Arrangements (IRAs) The bill would expand eligibility for deductible
IRA contributions. Under the bill, taxpayers covered by retirement plans could fully deduct
IRA contributions if their adjusted gross incomes were under \$75,000 for individuals, or
\$100,000 for joint filers, effective after December 31, 1994. The IRA deduction would be
subject to a last-dollar offset to the limit on elective deferrals to section 401(k) and similar
plans. One spouse's coverage under a retirement plan would not affect the other spouse's
eligibility for the deduction, and the income limitations and the maximum deductible
amount would be indexed for inflation. Beginning in 1994, the bill also would permit the
establishment of special IRAs, the contributions to which would not be deductible, but
withdrawals from which would be tax free if attributable to contributions held for more than
five years. Contributions to special IRAs would also be subject to the retirement plan
coverage and income limitations and the last-dollar offset to the 401(k) plan limit. Penalty-
free transfers from deductible IRAs to special IRAs would be permitted after December 31,
1992, subject to income limitations, and would qualify for favorable tax treatment if
accomplished before January 1, 1994.

**- 2 - Penalty-free withdrawals from IRAs, section
401(k) plans and section 403(b) arrangements** would be permitted for first-time home
purchases, educational expenses, and medical expenses, and from IRAs for the long-term
unemployed, effective after December 31, 1992. In addition, contributions to IRAs after
December 31, 1993, other than rollover contributions, could not be withdrawn without
penalty under the current exception for taxpayers over age 59-1/2 unless they had been
held in the account for at least five years. A separate provision would permit the rollover of
up to \$25,000 of certain military separation pay into an IRA.

Pension Simplification The bill
also contains a number of pension simplification provisions, including the expansion of the
availability of salary reduction simplified employee pensions (SARSEPs) to employers with
100 or fewer employees and the repeal of the requirement that at least half of the eligible
employees actually participate in the SARSEP. Although the bill would simplify the
nondiscrimination tests applicable to section 401(k) plans through safe harbors, the safe
harbors would not apply to SARSEPs. These provisions would be effective for taxable years
beginning after December 31, 1993. The bill does not include the PRIME account provisions

of the earlier Senate version of H.R. 11. Technical Corrections to 20 Percent Mandatory Withholding on Nonperiodic Distributions The bill also would make certain technical corrections to the pension provisions of the Unemployment Compensation Amendments Act of 1992. Under the technical corrections, neither hardship withdrawals, withdrawals for first-time home purchases or educational expenses, excess deferrals or contributions under 401(k) plans, excess aggregate contributions under section 401(m), nor deemed distributions with respect to plan loans that are in default would be eligible for rollover or subject to mandatory withholding. The bill would also provide a de minimis exception to the direct rollover requirement so that a plan would not be required to permit a direct rollover of, or withhold upon, a distribution of \$500 or less. A similar rule would apply to distributions pursuant to qualified domestic relations orders. In addition, the direct rollover and withholding requirements would not apply to any distribution which is one of a series of substantially equal periodic payments with respect to which the annuity starting date is before January 1, 1993, or to certain distributions paid on account of death, disability, separation of service or plan termination that occurred before January 1, 1993. - 3 - - 4 - The bill also clarifies that rollovers from a section 403(b) arrangement can only be made to an IRA or to another section 403(b) arrangement, and that the notice requirement applies to section 403(b) arrangements. The deadline for plan amendments would be extended to the first day of the first plan year beginning on or after January 1, 1995. Prohibition of State "Source Tax" on Periodic Distributions The bill does not include the provision of the earlier Senate version of H.R. 11 that would have prohibited a state from imposing income tax on certain periodic pension distributions made to an individual who is not a resident or domiciliary of the state. Pension Information Reporting Under the bill, penalty provisions applicable to information reports with respect to pension payments would be conformed to those applicable to other information reports, effective for returns and statements the due dates for which are after December 31, 1992. No reporting would be required for designated distributions of less than \$10, and the penalty for failure to provide the notice required under section 402(f) of the Code would be modified. * * * We will keep you informed of developments. Kathy D. Ireland Associate Counsel - Pension