MEMO# 6281

October 12, 1994

DEVELOPMENTS ON SOURCE STATE TAXATION LEGISLATION

October 12, 1994 TO: OPERATIONS MEMBERS NO. 35-94 PENSION MEMBERS NO. 33-94 TRANSFER AGENT ADVISORY COMMITTEE NO. 42-94 RE: DEVELOPMENTS ON SOURCE STATE TAXATION LEGISLATION ____ As previously reported, the Institute proposed an amendment to the "source-state taxation" provisions in the Bankruptcy Amendments Act of 1994 (S. 540) designed to protect third-party payors of retirement benefit distributions, such as mutual funds, from being required by any state to deduct and withhold income taxes or to issue any reports with respect to any such tax. (See Institute Memorandum to Operations Members No. 34-94, Pension Members No. 30-94, Transfer Agent Advisory Committee No. 38-94, dated September 26, 1994). A compromise measure offered as a stand alone bill in the House (H.R. 546) has replaced the "source-state taxation" provisions in S. 540. The Institute's proposed amendment was not incorporated into H.R. 546. The compromise bill was approved by the House on October 3, and referred to the Senate for concurrence. A copy is attached. While both the House and Senate will return after the elections for a vote on GATT, they are not expected to take up any other measures. Under H.R. 546, the first $30,000 of pension income received in a calendar year from the following types of plans would be exempt from source state taxation: section 401(a) qualified plans, section 408(k) simplified employee pensions, section 403(a) annuity plans, section 403(b) annuity contracts, individual retirement plans, section 457 plans, section 414(d) government plans, and section 501(c)(18) trusts. Lump sum and periodic benefit payments are included in determining the $30,000 annual exclusion. Individual recipients appear to be given authority to allocate pension income among states for tax purposes. The bill contains a provision stating that it shall not be construed as having any effect on ERISA preemption of state laws. There are various other provisions concerning, for example, allocation of pension income among multiple recipients and cost-of-living increases in the $30,000 exclusion. We will keep you informed of developments. John J. Canary, Jr. Assistant Counsel - Pension Attachment