

MEMO# 3997

August 12, 1992

INTERNAL REVENUE SERVICE PROPOSES TO FURTHER EXTEND EFFECTIVE DATE OF FINAL NONDISCRIMINATION REGULATIONS

August 12, 1992 TO: PENSION COMMITTEE NO. 30-92 RE: INTERNAL REVENUE SERVICE PROPOSES TO FURTHER EXTEND EFFECTIVE DATE OF FINAL NONDISCRIMINATION REGULATIONS _____ Earlier this year, the Internal Revenue Service announced that the effective date for the nondiscrimination regulations under sections 401(a)(4), 401(a)(17), 401(l), 410(b), 414(r) and 414(s) of the Internal Revenue Code would be extended to the first day of plan years beginning on or after January 1, 1993. (See Institute Memorandum to Pension Committee No. 11-92, dated March 2, 1992.) The IRS also extended the expiration date of the remedial amendment period under section 401(b) and the relief provisions of Notice 91-38, including the extension of Alternative II D, through the last day of the 1993 plan year. Attached is a copy of proposed regulations which would further delay the effective date of the final regulations under these sections, as well as section 401(a)(5), until the first day of plan years beginning on or after January 1, 1994. The effective date for tax-exempt entities would be extended to the first day of plan years beginning on or after January 1, 1996. For governmental plans, within the meaning of section 414(d), the relevant nondiscrimination requirements, including sections 401(a)(26), 401(k) and 401(m) of the Code, would be deemed satisfied until the first day of plan years beginning on or after the later of January 1, 1996, or 90 days after the opening of the first legislative session beginning on or after January 1, 1996, of the governing body with authority to amend the plan, if that body does not meet continuously. Taxpayers may rely upon a reasonable, good faith interpretation of these provisions for plan years beginning before the extended effective dates. In addition, the attached IRS Notice 92-36 extends the expiration date of the remedial amendment period under section 401(b) and the relief provided in Notice 91-38, until the end of the first plan year in which the regulations are proposed to be effective. We will keep you informed of further developments. Kathy D. Ireland Associate Counsel - Pension Attachments