

MEMO# 1183

May 26, 1989

IRS PROPOSED REGULATIONS CONCERNING MINIMUM COVERAGE AND PARTICIPATION REQUIREMENTS

- 1 - May 26, 1989 TO: PENSION MEMBERS NO. 26-89 RE: IRS PROPOSED REGULATIONS
CONCERNING MINIMUM COVERAGE AND PARTICIPATION REQUIREMENTS

Attached is a copy of recent IRS proposed regulations concerning the minimum coverage requirements under section 410(b) of the Internal Revenue Code. The attached document also contains amendments to the previously proposed regulations concerning the minimum participation requirements of section 401(a)(26) of the Code. (See Institute Memorandum to Pension Members No. 11-89, dated February 17, 1989.) Under section 410(b), as amended by the 1986 Tax Reform Act, each qualified plan must satisfy at least one of three minimum coverage tests. Under the percentage test, a plan must benefit at least 70 percent of the employer's nonhighly compensated employees. In order to satisfy the ratio test, a plan must benefit a percentage of the nonhighly compensated employees that is at least 70 percent of the percentage of the highly compensated employees who benefit under the plan. The average benefit test consists of two subtests. Under the nondiscriminatory classification test, a plan must benefit a classification of employees that is not discriminatory in favor of highly compensated employees. In addition, the average benefit percentage of the nonhighly compensated employees must be at least 70 percent of the average benefit percentage of the highly compensated employees. The proposed regulations under section 410(b) address the percentage test, the ratio test and the nondiscriminatory classification test, but reserve guidance concerning the average benefit percentage test for future regulations. The amendments to the previously proposed regulations under section 401(a)(26) provide for a number of exceptions and special rules in response to commentary on the February proposed regulations. We will keep you informed of further developments. - 2 - Kathy D. Ireland Assistant General Counsel Attachment