

**MEMO# 5498**

January 19, 1994

# **IRS SEPARATES NONPAYROLL FROM PAYROLL ITEMS FOR TAX REPORTING PURPOSES**

1 The regulations were issued in proposed form in November 1993. (See Institute Memorandum to Operations Members No. 36-93, Pension Committee No. 37-93, Tax Committee No. 38-93 and Transfer Agent Advisory Committee No. 56-93, dated November 16, 1993.) 2 See e.g., Institute Memorandum to Tax Committee No. 29-92, Pension Committee No. 27-92, Operations Committee No. 21-92 and Transfer Agent Advisory Committee No. 42-92, dated August 3, 1992. January 19, 1994 TO: OPERATIONS MEMBERS NO. 1-94 PENSION MEMBERS NO. 1-94 TAX MEMBERS NO. 3-94 TRANSFER AGENT ADVISORY COMMITTEE NO. 2-94 RE: IRS SEPARATES NONPAYROLL FROM PAYROLL ITEMS FOR TAX REPORTING PURPOSES

The Internal Revenue Service ("IRS") has revised its rules for depositing withheld income tax. Under the new procedures, effective for amounts withheld after December 31, 1993, all "nonpayroll" income tax withholding (e.g., backup withholding and withholding on pensions, annuities and IRAs) is to be reported on new IRS Form 945 (Annual Return of Withheld Income Tax), while all "payroll" withholding will continue to be reported on IRS Form 941 (Employer's Quarterly Federal Tax Return). Withheld "payroll" and "nonpayroll" amounts will likewise be deposited separately. The attached IRS announcement, which describes the procedures to be followed for making deposits of withheld tax on IRS Form 8109 (Federal Tax Deposit Coupon), provides procedures for making such deposits with existing Form 8109 until revised forms are available. Also attached are final IRS regulations which remove nonpayroll withholding taxes from IRS Form 941 reporting.<sup>1</sup> The Institute is pleased that these regulations effectively implement the Institute's suggestion to separate payroll taxes from nonpayroll taxes for purposes of the employment tax reporting regulations under Section 6302 of the Internal Revenue Code.<sup>2</sup> These regulations simplify tax reporting by, for example, treating payroll withholding and nonpayroll withholding separately for determining the required deposit schedule, including whether \$100,000 or more in tax has been withheld for purposes of the \$100,000 next-day deposit rule. We will keep you informed of developments. Keith Lawson Associate Counsel - Tax Attachments