

MEMO# 1731

February 22, 1990

IRS REVENUE RULING CONCERNING TRANSFERS AMONG SECTION 403(B) ARRANGEMENT FUNDING VEHICLES

February 22, 1990 TO: BOARD OF GOVERNORS NO. 13-90 PENSION MEMBERS NO. 8-90 RE: IRS REVENUE RULING CONCERNING TRANSFERS AMONG SECTION 403(b) ARRANGEMENT FUNDING VEHICLES _____ As you know, the Securities and Exchange Commission issued a final order in August 1989 approving the settlement reached among the College Retirement Equities Fund (CREF), the Institute, a group of four mutual fund complexes, and educational institutions in a proceeding involving CREF's application for exemptions from the provisions of the Investment Company Act of 1940. (See Institute Memorandum to Board of Governors No. 52-89, SEC Rules Members No. 46-89, and Pension Members No. 43-89, dated August 23, 1989.) As a result of this order, employees of colleges, universities and other tax-exempt organizations will have enhanced investment flexibility among section 403(b) funding vehicles, including mutual fund custodial accounts. The exercise of such flexibility could have been inhibited, however, by uncertainty over the tax consequences of transfers among such funding vehicles. Specifically, the IRS had not issued formal guidance concerning whether employees could transfer part of their accumulation in one vehicle to another tax-free or whether amounts originally invested in a mutual fund custodial account could be transferred to an annuity contract tax-free. The Institute therefore formed a coalition of active participants in the CREF proceeding, including TIAA-CREF, to join in a letter to Department of Treasury and IRS officials, requesting the issuance of a revenue ruling permitting such transfers on a tax-free basis. The Institute is pleased to report that the IRS has issued such guidance in Revenue Ruling 90-24, a copy of which is attached. The revenue ruling holds that employees generally can transfer all or part of their accumulations from one section 403(b) investment to another tax-free. If the original investment was subject to restrictions on early distributions, however, such as those contained in mutual fund custodial accounts, the transfer could be accomplished tax-free only if the transferred funds continued to be subject to such restrictions in the new investment. We will keep you informed of further developments. Kathy D. Ireland Associate General Counsel Attachment