

**MEMO# 8827**

April 22, 1997

## **REQUEST FOR INFORMATION RE: SIMPLE PLANS AND UNINCORPORATED ENTITIES**

VIA FAX April 22, 1997 TO: PENSION COMMITTEE No. 9-97 PENSION OPERATIONS ADVISORY COMMITTEE No. 10-97 AD HOC COMMITTEE ON SIMPLE PLANS RE: REQUEST FOR INFORMATION RE: SIMPLE PLANS AND UNINCORPORATED ENTITIES

The Internal Revenue Service is preparing additional guidance on SIMPLE plans. Although guidance likely will not issue for several months, the Institute will be communicating issues of concern to our members to the Service and the Treasury Department. The most prominent issue of interest to our membership is the treatment of sole proprietors, partners and self-employed individuals with regard to the SIMPLE matching contribution formula. It is our understanding that IRS and Treasury are internally discussing whether prior rulings regarding unincorporated entities in 401(k) plan regulations is relevant, by analogy, to SIMPLE IRAs. Specifically, Section 1.401(k)-1(a)(6)(iii) of the IRS regulations treats matching contributions as "elective contributions made on behalf of the partner." We have informally expressed our concern that such a ruling regarding SIMPLE IRAs would (1) limit the extension of SIMPLE retirement plan coverage, because many small employers are unincorporated entities and (2) require transitional correction rules, because many such entities that have established SIMPLE IRAs may not currently be applying this rule to SIMPLE matching contributions. To assist the IRS and Treasury in clarifying the issue, we would like to submit a letter detailing the extent to which SIMPLE plans are being established by unincorporated entities. It is our belief that such entities constitute a substantial segment of the SIMPLE market, and we seek your assistance in assembling data to support that representation. Additionally, the Institute is interested in obtaining other data to gauge how the SIMPLE has fared during the first quarter of 1997. Based on data available to you as of March 31, 1997, please complete the attached brief questionnaire and fax it to the undersigned by May 9, 1997. Russell G. Galer Assistant Counsel - Pension Enclosure