

MEMO# 15981

April 30, 2003

COMMENT LETTER ON FORMS 1099-Q AND 5498-ESA

[15981] April 30, 2003 TO: 529 PLAN ADVISORY COMMITTEE No. 25-03 OPERATIONS MEMBERS No. 13-03 PENSION MEMBERS No. 19-03 PENSION OPERATIONS ADVISORY COMMITTEE No. 23-03 TAX MEMBERS No. 26-03 TRANSFER AGENT ADVISORY COMMITTEE No. 42-03 RE: COMMENT LETTER ON FORMS 1099-Q AND 5498-ESA Earlier this year the Internal Revenue Service released new 2003 forms and instructions for Forms 1099-Q and 5498-ESA. These forms effectively change the reporting requirements for Coverdell ESAs ("ESAs"). Under the new rules, payers are required to report basis and earnings for ESAs. Payers must report ESA contributions and rollovers, including trustee-to-trustee transfers on Form 5498-ESA (instead of Form 5498). Payers must file Form 1099-Q (instead of Form 1099-R) to report distributions or rollovers from ESAs.¹ In the attached comment letter, the Institute urges that the following changes and clarifications be made to the new forms and instructions:

- o ESA record keepers should not be required to track earnings and basis in ESA accounts; this responsibility should remain with the ESA account holder. ESA record keepers would continue to report ESA contributions and withdrawals as they historically have done, but now would do so on new Forms 5498-ESA and 1099-Q.
- o Any obligation imposed on ESA record keepers to calculate earnings and basis should be imposed only prospectively, for new accounts opened after a transition period sufficient to permit record keepers to comply with the new requirements.
- o The requirements of Notice 2001-81 should be clarified with respect to ESA reporting, including the requirement to aggregate accounts.

¹ See Institute Memorandum to the 529 Plan Advisory Committee No. 11-03, Operations Members No. 6-03, Pension Members No. 9-03, Pension Operations Advisory Committee No. 8-03, Tax Members No. 11-03 and Transfer Agent Advisory Committee No. 19-03, dated February 19, 2003, for a discussion of the new Forms 1099-Q and 5498-ESA and to view copies of the forms and instructions.

² o Several technical issues regarding reporting on Forms 5498-ESA and 1099-Q should be clarified or resolved; among other things, a change is needed to the deadline for furnishing Copy B of Form 5498-ESA to the account holder, so that record keepers will have time to comply with the requirements.

Lisa Robinson Assistant Counsel Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 15981, or call the ICI Library at (202) 326-8304 and request the attachment for memo 15981. Attachment (in .pdf format)