

**MEMO# 5199**

October 5, 1993

## **IRS FINALIZES SUBSTANTIATION GUIDELINES AND FULLY OPENS DETERMINATION LETTER PROGRAM**

October 5, 1993 TO: PENSION COMMITTEE NO. 34-93 RE: IRS FINALIZES SUBSTANTIATION  
GUIDELINES AND FULLY OPENS DETERMINATION LETTER PROGRAM

In 1992, the IRS proposed issuing a revenue procedure that would simplify plan sponsors' substantiation of compliance with the nondiscrimination rules of sections 401(a)(4) and 410(b) of the Internal Revenue Code, and the regulations under section 414(s). (See Institute Memorandum to Pension Committee No. 19-92, dated May 19, 1992.) Attached is a copy of Revenue Procedure 93-42, which finalizes the proposed guidelines, with certain modifications relating to the identification of highly compensated employees. This simplified method of identifying such employees may be used in testing under sections 401(k) and 401(m), but the plan must be amended to incorporate the simplified identification method. The IRS has also finalized its determination letter process in the attached Revenue Procedure 93-39 so that applications filed on or after October 12, 1993, generally will be reviewed for compliance with all of the requirements of the Tax Reform Act of 1986. We will keep you informed of developments.

Kathy D. Ireland Associate Counsel - Pension Attachments

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