

MEMO# 1037

March 14, 1989

IRS NOTICE CONCERNING CORRECTIVE DISTRIBUTIONS UNDER TAMRA

March 14, 1989 TO: PENSION MEMBERS NO. 15-89 RE: IRS NOTICE CONCERNING CORRECTIVE DISTRIBUTIONS UNDER TAMRA

As you know, the Technical and Miscellaneous Revenue Act of 1988 (TAMRA) retroactively amended section 402(g)(2) of the Internal Revenue Code to provide that the income attributable to a corrective distribution of an excess deferral is treated as earned and received in the year of distribution rather than in the year of deferral. (See Institute Memorandum to Board of Governors No. 69-88 and Pension Members No. 44-88, dated November 1, 1988.) TAMRA also retroactively amended section 4979(f)(2) of the Code with respect to excess contributions and excess aggregate contributions by providing that corrective distributions of de minimis amounts (i.e., less than \$100) are includible in gross income in the year distributed rather than in the year for which the contribution was made. Each of these changes is effective for taxable years after 1986. Attached is a copy of IRS Notice 89-32, which describes the reporting requirements for corrective distributions under the TAMRA changes. This notice modifies Notices 87-77 and 88-33, which summarized the reporting requirements for 1988 corrective distributions of excess amounts includible in gross income in 1987. (See Institute Memoranda to Pension Members Nos. 66-87 and 16-88, dated December 17, 1987 and March 12, 1988, respectively.) Notice 89-32 provides that plan administrators and payors that complied with Notices 87-77 and 88-33 as originally issued with respect to corrective distributions for 1987 and 1988 excess deferrals, excess contributions and excess aggregate contributions will be considered to have satisfied the reporting requirements, provided that the corrective distributions were timely made on or before April 17, 1989. Moreover, the income on an excess deferral distributed before this date may be reported by the recipient, at his or her option, as income for either the year of distribution or the year of deferral, regardless of whether the plan administrator or payor has reported it as income for a different year. Similarly, the recipient of a corrective distribution of a de minimis excess contribution or excess aggregate contribution on or before April 17, 1989 may report the distribution in gross income for either the year of distribution or the year for which the contribution was made. The pre-TAMRA rules may not be used, however, for excess deferrals, excess contributions and excess aggregate contributions distributed after April 17, 1989. The notice also discusses in detail plan administrator and payor reporting of corrective distributions on Forms W-2P and 1099-R, including additional distribution codes, and taxpayer reporting on Form 1040. Separate rules are set forth with respect to recharacterized excess contributions. We will keep you informed of further developments.

Kathy D. Ireland Assistant General Counsel Attachment

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