

MEMO# 1806

March 28, 1990

IRS REVENUE PROCEDURE MODIFYING PROTOTYPE PLAN PROCEDURES AND EXTENDED FILING DEADLINE

March 28, 1990 TO: PENSION MEMBERS NO. 13-90 RE: IRS REVENUE PROCEDURE
MODIFYING PROTOTYPE PLAN PROCEDURES AND EXTENDED FILING DEADLINE

Attached is a copy of IRS Revenue Procedure 90-21, which modifies Revenue Procedure 89-9 with respect to the procedure for obtaining IRS opinion letters for prototype plans. (See Institute Memorandum to Pension Members No. 7-89, dated February 8, 1989.) Included in the modification are changes concerning after-tax employee contributions and the definition of compensation, which were described previously in Announcement 89-79. (See Institute Memorandum to Pension Members No. 30-89, dated June 13, 1989.) In addition, Revenue Procedure 89-9 originally contained a deadline of October 31, 1989 for a sponsoring organization's submission of a replacement plan in order to provide its adopting employers continued or interim reliance. This deadline was extended to March 31, 1990 by Announcement 89-118. (See Institute Memorandum to Pension Members No. 45-89, dated October 3, 1989.) Revenue Procedure 90-21 provides a further extension of the deadline to 90 days after the date of publication in the Federal Register of proposed regulations under section 401(a)(4) of the Code. Other changes include: (1) elimination of the requirement that standardized plans provide top-heavy vesting at all times; (2) addition of a requirement for standardized plans that a participant may be denied an accrual or allocation only if he both (a) terminates with not more than 500 hours of service and (b) is not an active employee on the last day of the plan year; (3) clarification of the rules concerning top-heavy minimum contribution requirements under standardized section 401(k) plans; and (4) adoption of a procedure for adding provisions concerning participant loans pursuant to the final regulations under section 408(b)(1) of ERISA. We will keep you informed of further developments. Kathy D. Ireland Associate General Counsel Attachments