INVESTMENT COMPANY INSTITUTE

MEMO# 8879

May 16, 1997

INSTITUTE SUBMITS COMMENT LETTER ON SIMPLE PLANS TO TREASURY DEPARTMENT

May 16, 1997 TO: PENSION MEMBERS No. 19-97 PENSION OPERATIONS ADVISORY COMMITTEE No. 12-97 AD HOC COMMITTEE ON SIMPLE PLANS RE: INSTITUTE SUBMITS COMMENT LETTER ON SIMPLE PLANS TO TREASURY DEPARTMENT ____ On May 16, 1997, the Institute submitted a comment letter regarding the Savings Incentive Match Plan for Employees (SIMPLE) to the U.S. Department of Treasury. The letter informs the Department of the results of an informal Institute survey on SIMPLE plans and seeks clarification of certain outstanding issues regarding the SIMPLE. In particular, the letter focuses on the status of self-employed individuals. Presently, the Department and Internal Revenue Service are considering whether partners, sole proprietors and other unincorporated, self-employed individuals participating in SIMPLE plans are required to apply the employer's 3% matching or 2% non-elective contribution amounts against the annual $6,000 cap on employee contributions to a SIMPLE account. Such a ruling would significantly undermine the incentive such individuals have to establish SIMPLE plans. The statutory language does not mandate this rule. To the contrary, for purposes of contribution limitations, the statute treats the self-employed identically to common law employees. Common law employees participating in SIMPLE plans may defer up to $6,000 annually and obtain matching or non-elective employer contributions in addition to the salary deferrals. Based on its survey, the Institute believes that the self-employed segment of the small employer community is vital to the continued success and growth of the SIMPLE program. Over 50% of SIMPLE plans established in first quarter, 1997, were established by unincorporated entities, such as partnerships and sole proprietorships. Furthermore, SIMPLE plan establishment is concentrated amongst the smallest employers, many of which are unincorporated entities. About 86% of SIMPLE IRA plans have fewer than 10 participants, and almost 98% of SIMPLE IRA plans have 25 or fewer participants. In the case that regulatory guidance does limit a self-employed individual's total annual contributions, it is likely that a number of SIMPLE plans would not be in compliance. Therefore, the Institute recommends applying any such rule only prospectively for plan years beginning in 1998. - 2 - The Institute submission also requests guidance on the following matters: (1) the extent of a designated financial institution's responsibility to make timely transfers of assets, (2) the ability to charge annual account fees to SIMPLE IRAs different than those assessed other IRAs; (3) Form 5498 reporting obligations; (4) the application of section 402(g) limitations and the two-year holding period to situations where an individual has two or more SIMPLE accounts with more than one employer; and (5) the application of the 60-day election period rules. We will keep you informed of further developments. Russell G. Galer Assistant

Counsel - Pension Attachment Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Information Resource Center at (202)326-8304, and ask for this memo's attachment number: 8879.
