

**MEMO# 2293**

October 26, 1990

## **INSTITUTE REQUESTS IRS TO APPROVE PROTOTYPE SARSEPS**

October 26, 1990 TO: PENSION COMMITTEE NO. 26-90 RE: INSTITUTE REQUESTS IRS TO APPROVE PROTOTYPE SARSEPS

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The Institute understands that many eligible small employers have expressed interest in adopting a simplified employee pension ("SEP") with a salary reduction arrangement. (A SEP with a salary reduction agreement is commonly referred to as a "SARSEP".) However, these employers generally will not adopt the plan because IRS Form 5305A-SEP, the IRS model SARSEP plan form, requires adopting employers to make top-heavy minimum contributions annually, regardless of whether the plan is top-heavy as defined by Section 416 of the Code. These top-heavy minimum contributions generally require the employer to contribute 3 percent of each eligible employee's compensation to the plan every year. The IRS has an indefinite moratorium on providing opinion letters to individual sponsors of prototype SARSEPs which, unlike Form 5305A-SEP, need not require SARSEPs to be top-heavy every year. In an effort to allow mutual fund organizations to offer small employers a SARSEP which is not top-heavy, the Institute urged the IRS to begin issuing opinion letters for prototype SARSEPs. As an alternative, the Institute requested the IRS to modify Form 5305A-SEP to provide a top-heavy determination procedure in lieu of requiring annual top-heavy minimum contributions. A copy of the Institute's letter to Martin Slate, Director of the IRS Employee Plans and Actuarial Division, is attached. We will keep you informed of further developments. W. Richard Mason Assistant General Counsel Attachment

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