The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

MEMO# 11140

August 2, 1999

SENATE PASSES TAX BILL INCLUDING PENSION AND IRA EXPANSION

1 See Institute Memorandum to Pension Committee No. 46-99 and Pension Operations Advisory Committee No. 36-99, dated July 28, 1999 for a discussion of the House bill. [11140] August 2, 1999 TO: PENSION COMMITTEE No. 50-99 PENSION OPERATIONS ADVISORY COMMITTEE No. 38-99 RE: SENATE PASSES TAX BILL INCLUDING PENSION AND IRA EXPANSION

_____ On July 30, 1999, the Senate on a vote of 57 to 43 passed the Senate version of H.R. 2488, titled "The Taxpayer Refund Act of 1999." This bill contains substantial tax, pension and education proposals, which are described below. This bill will be reconciled at conference with the version of the bill passed by the House of Representatives on July 23.1 The President has indicated that he will veto a tax bill of the magnitude passed by the House and Senate. We will keep you informed as the legislative process proceeds. For a complete list of all provisions, please review the table of contents to the bill, which is attached. Additionally, for further detail you can refer to the statutory language and excerpts from the Senate Finance Committee Report, which are attached. This memorandum generally presents provisions in the order in which they appear in the bill. Most retirement-related provisions are in Title III of the bill, which is divided into subtitles. Many of these items, including IRA expansion, portability, catch-up contributions, increases in contribution limits, and top-heavy reform have been advocated by the Institute. Effective dates are noted below. Generally, provisions in the bill are effective after December 31, 2000. I. Individual Retirement Accounts (Title III, Subtitle A) A. Increase In Annual Contribution Limit. The bill would increase the annual contribution limit to IRAs and Roth IRAs in $1,000 annual increments, beginning in 2001, until the limit reaches $5,000 in 2003. The limit would then be indexed for inflation in $100 increments. Bill Section 301; Report p. 15. B. Increase In Income Limits for Deductible IRA Contributions. The income limits applicable to active participants in employer-sponsored plans would increase annually for individuals and married taxpayers filing a joint return for the years 2001 through 2010 until the income limits reach $94,000 (joint)/$57,000 (single). Beginning in 2010, the income limits would be indexed for inflation in $1,000 increments. A table of proposed, annual scheduled increases can be found in the bill at page 51 and 52. Bill Section 301; Report p. 15-16. 2 N.B., in the course of Senate floor action, the effective date of this provision was delayed by two years. This change is reflected in the bill language, which is attached, but not in the attached Senate Finance Committee report. 3 This provision was introduced on the Senate floor by Senator Grassley and is not discussed in the Senate Finance Committee report. 2 C. Repeal Of Income Limits On Roth IRA Contributions. The proposal, effective for taxable years beginning after December 31, 2002, would repeal the income limits on eligibility to make Roth IRA contributions. Bill Section 302; Report p. 16.2 D. Increase In Limits For Roth IRA

Conversions. The bill would increase the income limit on conversions from traditional to Roth IRAs from $100,000 (applicable to both individual and married taxpayers filing jointly) to $1,000,000. The proposal would be effective for taxable years beginning after December 31, 2002. Bill Section 302; Report p. 16. E. Deemed IRAs In Employer Plans. The bill would enable employers to allow employees to make IRA or Roth IRA contributions to a separate account within their employer- sponsored retirement plan. The account would be treated as any IRA, and would not be subject to plan testing requirements. The account would be exempt from ERISA, except for ERISA sections 403(c), 404 and 405 (relating to exclusive benefit, fiduciary and co-fiduciary liability), which would continue to apply. Bill Section 303.3 F. IRA Distributions For Charitable Purposes. Title VIII, Section 804 of the bill would exclude qualified charitable distributions from IRAs from the gross income of the distributee if the distributions are made to certain charitable organizations, trusts, funds, or annuities. The bill would define “qualified charitable distribution” as any distribution from an IRA made after age 70½ and made directly to an eligible entity. The amount otherwise allowable as a deduction to an individual as charitable contributions would be reduced by the amount of qualified charitable distributions for that year. Section 804 would become effective for tax years after December 31, 2000. Bill Section 804; Report p. 111-112. G. IRA Investment In “Legal Tender Coins.” The bill would provide that beginning in 2000, U.S. legal tender coins or coins issued by a State are permitted investments if traded on a national exchange. Bill Section 305; Report p. 16. H. Individual Development Accounts. The bill would create Individual Development Accounts (“IDAs”) (at new Code section 530A) to which eligible individuals may contribute up to $350 annually in the form of nondeductible contributions. Earnings on an individual's contributions would be includible in income. Individuals contributing to an IDA would receive a matching contribution from the financial institution maintaining the IDA. Neither the match nor the earnings thereon would be includible in income. The financial institution would receive a tax credit equal to 85% of the matching contribution. An eligible individual must be (1) at least 18 years old, (2) a citizen or legal resident of the United States, and (3) a member of a household either eligible for the earned income credit or eligible for assistance under a State program funded under Title IV of the 3Social Security Act, or with family gross income of 60% or less of area median gross income and net worth of less than $10,000. An accountholder may take distributions from an IDA for specified purposes or after completing an economic literacy course. Specified purposes include certain educational expenses, first-time homebuyer expenses, and business start-up expenses. If assets are otherwise distributed from an IDA, the matching contribution attributable to the contribution would be forfeited. Such forfeitures would be used by the financial institution to make matching contributions to other IDAs. This is a five-year program, the effective date of which is January 1, 2001 to December 31, 2005. Bill Section 304; Report p. 16-18. II. Expanding Coverage (Title III, Subtitle B) A. After-Tax Elective Deferral “Plus” Contributions To 401(k) Plans And 403(b) Annuities. The bill would enable a section 401(k) plan or section 403(b) annuity to include a “qualified plus contribution program” under which an individual could elect to have all or a portion of his or her elective deferrals under the plan treated as after-tax contributions. Qualified distributions from the Plus program would be tax free, following rules described below. The proposal would be effective for taxable years beginning after December 31, 2000. Under the program, the annual contribution limit for Plus contributions is the Code section 402(g) limit reduced by other elective deferrals. For 401(k) plans, Plus contributions are treated the same as other elective deferrals for the purposes of nondiscrimination requirements. A plan offering a Plus program is required to maintain separate recordkeeping for Plus contributions and related earnings. Qualified distributions from the Plus program would not be includible in income. A qualified distribution is one (1) made after the five-taxable year period beginning with the first taxable year in which a participant

made a Plus contribution and (2) made on or after the participant attains age 59 ½ , to a beneficiary or a participant's estate upon the death of the participant, or upon disability of the participant. Bill Section 311; Report p. 18-20. B. Increase In Elective Deferral Limits. The bill would increase elective deferral limits beginning in 2001 as follows: (1) the section 402(g) limit applicable to annual elective deferrals in 401(k) and other plans would increase in $1,000 increments until reaching $15,000 in 2005; (2) the dollar limit on deferrals under a section 457 plan would increase to $9,000 in 2001, and thereafter in $1,000 increments until reaching $12,000 in 2004; and (3) the SIMPLE plan elective deferral limit would increase similarly until reaching $10,000 in 2004. Thereafter, for all these plan types the dollar limits would be indexed in $500 increments for inflation, as under present law. Bill Section 312; Report p. 20-21. C. Plan Loans For Owner-Employees. The bill would modify the prohibited transaction rules to permit plan loans to sole proprietors, partners, and Subchapter S corporation shareholders, effective after December 31, 2000. Bill Section 313; Report p. 21-22. 4D. Elective Deferrals Not Taken Into Account For Deduction Limit. Under Section 314 of the bill, elective deferrals would no longer be considered employer contributions subject to the Code section 404 deduction limits. The provision would be effective in 2001. Bill Section 314; Report p. 23. E. Elimination of User Fees For New Plans. Effective with respect to requests made to the IRS in 2001 and thereafter, user fees would no longer be charged for any determination letter, ruling or opinion for any new retirement plan. Bill Section 317; Report p. 25-26. F. Simplified Small Employer Defined Benefit Plan ("SAFE"). Effective after December 31, 2000, the bill would create a simplified defined benefit plan called the "Secure Assets for Employees" ("SAFE") plan. The SAFE plan, which would be available to employers with 100 employees or less, would not be subject to nondiscrimination, top- heavy, minimum participation and coverage, or section 415 rules. Nor would minimum funding standards apply. In lieu of these requirements, employees must receive a minimum defined benefit under the plan that is equal to 1, 2, or 3% of compensation, plus a higher benefit if plan asset investment returns exceed actuarial assumptions described in the bill. The actuarial assumptions required to be used are as follows: an annual interest rate of between 3 and 5 percent; mortality rates as prescribed by Treasury regulation and tables; and a retirement age of 65. The plan may take into account up to 10 prior years of service. All benefits would be fully vested at all times. A SAFE plan would be required to provide for payment of benefits in the form of a single life annuity or an actuarially equivalent form of benefit, but would not be subject to joint and survivor annuity requirements. Distributions made prior to a participant's attainment of age 59 ½ would be subject to a 20% tax (in addition to relevant income taxes). The SAFE plan could be funded through either an annuity or trust arrangement. Bill Section 318; Report p. 26-28. G. Top-Heavy Rule Modification. The bill would (1) permit matching contributions to count towards satisfying the top-heavy rule's minimum benefit requirement; (2) repeal the family attribution of stock ownership rule; and (3) clarify that a safe-harbor 401(k) plan is deemed to satisfy the top-heavy rule. These modifications would be effective beginning on January 1, 2001. Bill Section 319; Report p. 28-32. III. Enhancing Fairness For Women (Title III, Subtitle C) A. Catch-up Contributions For Individuals Age 50 Or Over. The bill would permit individuals who have attained age 50 to make additional elective contributions to IRAs and employer-sponsored retirement plans. In the case of IRAs, the catch-up amount would be phased in over five years in 10% increments beginning in taxable years after December 31, 2000, until 2005, when the annual permitted catch-up amount would be equal to 50% of the maximum annual IRA contribution limit. With respect to employer-sponsored plans, the 50% catch-up amount similarly would be phased in over five years in 10% increments. Thus, for 401(k)s, 403(b)s, SIMPLEs and 457 plans, individuals who have attained age 50 before the end of the plan year, after the phase-in, would be permitted to make elective deferrals in addition to those permitted under their plan in amounts equal to

50% of the annual maximum dollar amount 5permitted under the Code. The catch-up contributions would not be subject to nondiscrimination and other testing requirements. Bill Section 321; Report p. 32-34. B. Equitable Treatment For Contributions Of Employees To Defined Contribution Plans. Effective January 1, 2001, the section 415(c) limit on annual additions would be amended to increase the 25-percent of compensation limitation to 100 percent. The exclusion allowance applicable to contributions to section 403(b) annuities would be repealed. The 33 1/3-percent of compensation limitation on deferrals in 457 plans would be changed to 100 percent. Bill Section 322; Report p. 34-36. C. Modification of Hardship Withdrawal Safe Harbor. The bill would direct the Secretary of the Treasury to revise regulations addressing 401(k) hardship distributions to reduce from 12 to 6 months the period during which an employee must be prohibited from making contributions after taking a distribution on account of hardship. Bill Section 324; Report p. 37-38. D. Faster Vesting of Matching Contributions. Section 325 of the bill would require employer matching contributions (as defined in Code section 401(m)(4)(A)) to be vested on a 3-year cliff or 6-year graded vesting schedule, generally effective for contributions made for plan years beginning after December 31, 2000. Bill Section 325; Report p. 38- 39. IV. Increasing Portability for Participants (Title III, Subtitle D) A. Rollovers of Retirement Plan and IRA Distributions. Effective December 31, 2000, eligible rollover distributions from qualified retirement plans, section 403(b) annuities and governmental section 457 plans generally could be rolled over to any of such plans or arrangements. Similarly, taxable amounts in a traditional IRA (i.e., all but account basis) could be rolled over into a qualified plan, section 403(b) annuity or governmental section 457 plan. Direct rollover and withholding rules would be extended to section 457 plans. No plan, however, would be required to accept rollovers. Distributions from a qualified plan would not be eligible for capital gains or income averaging treatment if there was a rollover to the plan that would not have been permitted prior to these amendments to the rollover rules. Amounts distributed from a section 457 plan would be subject to the early withdrawal tax to the extent the distribution consists of amounts attributable to rollovers from another type of plan; section 457 plans accepting such rollovers would be required to separately account for such amounts. The section 402(f) rollover notice, which would be required of all plans, would be required to describe the extent to which distribution rules and tax consequences may differ from plan to plan. Bill Sections 331 and 332; Report p. 39-42. B. Rollover of After-Tax Contributions. After-tax contributions in a qualified plan could be rolled over into another qualified plan or a traditional IRA. Plan-to-plan rollovers of after-tax monies would be required to be direct rollovers. Plans accepting such rollovers would be required to separately account for them. 6After-tax contributions in an IRA (including those rolled from a qualified plan and nondeductible contributions to an IRA), would not be permitted to be rolled over from the IRA to a qualified plan, 403(b) annuity or section 457 plan. In the case of a distribution from an IRA that is rolled over into those plan types, the distribution is attributed first to taxable amounts (i.e., all amounts other than after-tax contributions). Section 333; Report p. 42. C. Issuance of Regulatory Guidance On Rollovers. The accompanying Committee report states that the IRS is expected to issue rules with respect to reporting and mechanisms to address mistakes relating to rollovers and to develop forms (for example, by expanding the Form 8606) to assist individuals in tracking after-tax contributions rolled over to an IRA. Report p. 42. D. Hardship Exception To 60-Day Rollover Rule. The bill would give the IRS authority to waive the 60-day rollover requirement where failure to comply is due to casualty, disaster or other events beyond the control of the individual. Bill Section 334; Report p. 43. E. Anticutback Rule Relief With Respect To Forms Of Distribution. The bill would permit the transfer of a participant’s accrued benefit from one defined contribution plan to another even though the transferee plan does not provide all of the forms of distribution available under the transferor plan. Such transfers would be permitted if (1) the transfer is either the

result of a merger or consolidation of plans or is in the form of a direct transfer, (2) the terms of each plan permit the transfer and the transferee plan permits distributions in the form of a single lump sum distribution, and (3) the transfer is by voluntary election of the plan participant and, to the extent required by section 417, the participant's spouse consents to the transfer. The bill also provides that a defined contribution plan would not be treated as violating the anticutback rule (section 411(d)(6) of the Internal Revenue Code) if the plan is amended to eliminate a form of distribution previously available as long as a lump sum distribution is available (for at least those benefit accruals that would have been protected under section 411(d)(6)) at the same time as the form of distribution being eliminated. The effective date of the proposal would be January 1, 2001. Additionally, Treasury would be directed to issue regulations allowing the elimination of optional forms of benefit provided the rights of participants are not adversely affected in a material manner. Such regulations would be required to be issued by December 31, 2001. Bill Section 335; Report p. 43-45. F. Repeal of Same Desk Rule. Effective for distributions after December 31, 2000, the bill would modify the distribution restrictions applicable to 401(k) plans, 403(b) arrangements and 457 plans to permit distribution upon "severance from employment," rather than from "separation from service." Bill Section 336; Report p. 45-46. G. Purchase of Service Credit In Governmental Defined Benefit Plans. The bill would permit state and local government employees to transfer assets (in a trustee-to-trustee) from their 403(b) arrangement or 457 plan to purchase service credits under their defined benefit plan. Bill Section 337; Report p. 46-47. 7H. Disregard of Rollovers When Applying Cash-Out Rules. The bill would permit plans to disregard amounts that had been rolled over into the plan when determining the present value of an individual participant's accrued benefit for purposes of making involuntary distributions from the plan. (Under current law, involuntary distributions are permitted if the accrued benefit does not exceed $5,000.) Bill Section 338; Report p. 47-48. V. Strengthening Pension Security and Enforcement (Title III, Subtitle E) A. Proposals Related to Defined Benefit Plans. The bill would (1) reduce PBGC premiums for new plans (Bill Sections 315 and 316; Report p. 24-25); (2) over a phase-in period repeal the 150% of current liability funding limit (Bill Section 341; Report p. 48-49); (3) extend the PBGC missing participant program to multiemployer plans (Bill Section 342; Report p. 50); (4) modify the excise tax on nondeductible contributions applicable to a defined benefit plan sponsor funding up to the Code section 412(c)(7) full funding limit (Bill Section 343; Report p. 50-52); (5) repeal the 100% of compensation limit at Code section 415 applicable to defined benefit multiemployer plans (Bill Section 346; Report p. 57-58); (6) modify the Code section 404(a)(1)(D) maximum contribution deduction rules and apply them to all defined benefit plans (Bill Section 347); (7) permit plans with assets of at least 125% of current liability to make an irrevocable election to use the prior year's plan valuation rather than to obtain one annually; such plans would be required to obtain an actual valuation once every three years (Bill Section 362; Report p. 61-62); and (8) modify the PBGC guaranteed benefits for substantial owners in terminated plans (Bill Section 363; Report p. 62-63). B. Modification of ERISA Section 204(h) Notice Requirements. Section 344 of the bill would add to the Internal Revenue Code a requirement that the plan administrator of a defined benefit plan furnish written notice concerning a plan amendment that provides for a significant reduction in the rate of future benefit accrual. The bill specifies the information required in the notice. Tax penalties would be imposed for failure to satisfy the notice requirements. Present-law notice requirements in section 204(h) of ERISA would be similarly modified. This provision responds to recent controversies regarding cash-balance plans. Bill Section 344; Report p. 52-56. C. Investment of Employee Contributions in 401(k) Plans. The bill would modify the effective date of the provision in the Taxpayer Relief Act of 1997 that excludes certain elective deferrals from limits on the extent of plan investment in employer securities or real property. Bill Section 345; Report p. 56-57. VI. Encouraging

Retirement Education (Title III, Subtitle F) A. Periodic Pension Benefit Statements. The bill would require the plan administrator of a defined contribution plan to furnish a benefit statement to each participant at least once annually and to a beneficiary upon written request. Defined benefit plan administrators would be required to furnish statements annually upon request, as under current law, and additionally, furnish a benefit statement at least once every three years to each participant who has a vested accrued benefit and is currently employed by the employer. Alternatively, in the case of a defined benefit plan, 8the plan administrator may annually furnish written or electronic notice to each participant of the availability of such statements. In either case the statement must indicate total benefits accrued, the amount vested the earliest date on which benefits will become vested, and must be written in a manner calculated to be understood by participants. The statement may be furnished in written, electronic, telephonic or other appropriate form. This provision becomes effective for plan years beginning after December 31, 2000. Bill Section 351; Report p. 58-59. B. Tax Treatment of Employer-Provided Investment Advice. Effective for taxable years beginning after December 31, 2000, the bill would provide that qualified retirement planning services provided to an employee and his or her spouse are excludable from income and wages as an excludable fringe benefit. Such services, however, must be made available on a substantially equal basis to employees normally provided education and information regarding the employer's retirement plan. Bill Section 352; Report p. 59-60. VII. Reducing Regulatory Burdens (Title III, Subtitle G) A. Flexibility in Nondiscrimination and Coverage Rules. The bill directs the IRS to modify its regulations to permit plans to satisfy the section 401(a)(4) nondiscrimination and section 410(b) coverage requirements using "facts and circumstances" tests in cases where the current mechanical tests are not satisfied. Under the regulations, a plan would be submitted to the IRS for a determination whether the test has been met. The regulations would apply in years beginning after December 31, 2000. Bill Section 361; Report p. 60-61. B. Notice and Consent Period For Distributions. The bill would revise the current time frame during which a plan must provide notice of distribution rights to a participant. Specifically, the plan would be required to provide the notice and obtain consent no less than 30 days and no more than 12 months (rather than 90 days) before the date a distribution commences. The bill directs Treasury to modify its section 411(a)(11) regulations to provide that descriptions of a participant's right to defer receipt of a distribution describe the consequences of failing to defer receipt. The provision would be effective for years beginning after December 31, 2000. Bill Section 365; Report p. 64-65. C. Employees of Tax-Exempt Organizations And 401(k) Plan Formation. The bill would rectify problems created by an IRS rule implemented before Congress permitted tax- exempt entities to form 401(k) plans. Specifically, Congress permitted tax-exempt entities to establish 401(k) plans in the Small Business Job Protection Act of 1996. Previously implemented IRS rules establish that employees of tax-exempt entities could be excluded from the 401(k) coverage rules, if an affiliated entity established a 401(k) plan, because employees of the tax-exempt could not participate in the plan. The bill directs Treasury to modify its rule to accommodate the SBJPA change as follows: employees who are eligible to make elective deferrals under a 403(b) arrangement may be treated as excludable for purposes of the 401(k) plan if no employee of that relevant organization is eligible to participate in the 401(k) plan and 95% of the employees who 4 This provision was added on the Senate floor and has no corresponding Report explanation. 9 are not employees of that organization are eligible to participate in the 401(k) plan. Bill Section 367; Report p. 66-67. D. Summary Annual Report Dissemination. The bill would require the summary annual report, which is presently required to be furnished under ERISA section 104(b)(3), only be made available for examination and be furnished only upon request. This provision would apply to reports for years beginning after December 31, 1998. Bill Section 369; Report p. 67-68. E. Reporting Simplification For Small Plans. The bill would

direct the Treasury to eliminate the annual filing requirements for one-participant retirement plans with $500,000 in assets or less. Similarly, retirement plans that cover less than 25 employees would need only file a simplified form substantially similar to that presently required of one-participant plans. The provision would be effective January 1, 2001. Bill Section 371.4 VIII. Plan Amendments (Title III, Subtitle H) The bill provides that plans and annuity contracts required to be amended to comply with statutory or regulatory changes need not be amended until the last day of the first plan year beginning on or after January 1, 2003. In the case of governmental plans, the date for amendments is extended to the first plan year beginning on or after January 1, 2005. Plans, however, must be in operational compliance with the bill in accordance with each provision's effective date. Bill Section 381; Report p. 69. XI. Education Tax Relief Relating To Qualified Tuition Programs (Title IV) A. Expansion to Private Educational Institutions. Effective January 1, 2000, the bill would expand the qualified state tuition program to enable private educational institutions to establish such programs under Code section 529. The bill would, however, require that programs established by private institutions be in the form of tuition credit or certificate programs. As under the current rule, only qualified state institutions would be permitted to establish "savings account plans." Bill Section 402(b); Report p. 71-73. B. Exclusion from Gross Income. The bill would provide that distributions made in taxable years after December 31, 1999 used for qualified higher education expenses are excludible from gross income. However, with respect to distributions from programs established by eligible private educational institutions, the provision excluding distributions from gross income would become effective January 1, 2004. Bill Section 402(c); Report p. 73. C. Coordination with HOPE and Lifetime Learning Credits and Education IRAs. The bill would modify the manner in which distributions from qualified tuition programs are coordinated with Education IRA distributions and credits received under the HOPE and Lifetime Learning Credits programs. Specifically, the bill would allow an individual to claim a HOPE or Lifetime Learning Credit and receive distributions from a qualified tuition program on behalf of the same student in the same tax year, as long as the credit and distribution are used for different educational expenses. Similarly, the bill would 10 permit contributions to be made to both an Education IRA and to a qualified tuition program in the same year. Bill Section 402(c), (d); Report p. 73. D. Rollovers and Designated Beneficiary Changes. The bill would clarify that the rollover of credits or other amounts between qualified tuition programs for the same beneficiary are permissible if limited to one in each 1-year period. Furthermore, the bill would provide that first cousins are considered a "member of the family" for purposes of designated beneficiary changes permitted under section 529(c)(3)(C). This "member of the family" definition would also apply to Education IRAs. Bill Section 402(e), (f); Report p. 74. E. Definition of Qualified Higher Education Expenses. The bill would modify the definition of qualified higher education expenses to specify the allowable expenses for books, supplies and equipment. The bill's definition of qualified higher education expenses would also apply to Education IRAs under Code section 530. Bill Section 402(g); Report p. 74. X. Revenue Offsets and Technical Corrections Relating to Pensions (Title XIII, Title XIV) A. Increased Elective Withholding Rate for Nonperiodic Distributions from Deferred Compensation Plans. The bill would increase the elective withholding rate for nonperiodic distributions from 10 percent to 15 percent, effective for distributions after December 31, 2000. Bill Section 1303; Report p. 189-191. B. Extension of IRS User Fees. Current law authorizes the IRS to charge user fees for certain requests, including requests for letter rulings, determination letters, and opinion letters, until September 30, 2003. The bill, effective upon the date of enactment, extends the statutory authorization for such fees through September 30, 2009. Bill Section 1304; Report p. 191. C. Excess Pension Assets Used for Retiree Health Benefits. The bill would extend the availability of qualified transfers of excess pension assets of a defined benefit plan to health benefit accounts of such plans

from December 31, 2000 to September 30, 2009. The bill would also replace the minimum benefit requirement, which requires the provision of a minimum level of health benefits for 5 taxable years beginning with the taxable year of transfer, with the minimum cost requirement, which would require the provision of a minimum dollar level of retiree health expenditures for the same period. Bill Section 1305; Report p. 191-194. D. Section 3405 Withholding Inapplicable to Roth IRA Distributions. The bill would clarify that Code section 3405, which generally requires payors to withhold 10 percent of any distribution from an IRA (unless the payee affirmatively elects not to have any withholding), does not apply to Roth IRAs. Bill Section 1403(a); Report p. 222. E. IRA Contributions of Nonworking Spouses. The Small Business Job Protection Act of 1996 expanded the IRA deduction for nonworking spouses. In certain cases, however, the nonworking spouse could make IRA contributions in excess of the couples' combined earned income. The bill would clarify that such contributions may not exceed the couples' combined earned income. Bill Section 1404(c); Report p. 223-224. 5 This provision was added on the Senate floor and has no corresponding Report explanation. 11 F. Saver Act Technical Correction. The bill would amend section 517 of ERISA to specify the manner in which delegates are to be appointed to the quadrennial National Summit on Retirement Income Savings (i.e., the "SAVER Summit"). Bill Section 1406.5 Russell G. Galer Senior Counsel Thomas T. Kim Assistant Counsel Attachments

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