

MEMO# 10234

August 28, 1998

ICI SUBMITS COMMENTS ON PROPOSED ANTICUTBACK RELIEF

1 See Institute Memorandum to Pension Committee No. 31-98 and Pension Operations Advisory Committee No. 19-98, dated May 22, 1998. [10234] August 28, 1998 TO: PENSION COMMITTEE No. 55-98 PENSION OPERATIONS ADVISORY COMMITTEE No. 40-98 AD HOC COMMITTEE ON OPTIONAL FORMS OF BENEFIT RE: ICI SUBMITS COMMENTS ON PROPOSED ANTICUTBACK RELIEF

The Institute has submitted a comment letter in response to Notice 98-29,¹ in which the Internal Revenue Service proposes relief from the application of the anticutback rule to optional forms of benefit. Presently, many defined contribution plans provide an unnecessarily complex menu of benefit payment options because of the current section 411(d)(6) rules. Specifically, the Institute recommended that the Service permit employers to reduce optional forms of benefit offered in a defined contribution plan to a choice between a lump sum benefit and one extended form of payment option. The Institute letter explained that, because a lump sum distribution option provides each participant with the ability to replicate any other form of benefit, other forms of benefit could be eliminated without a participant losing a valuable benefit under Section 411(d)(6). The Service, however, suggested in Notice 98-29 that it would require employers to offer at least one extended form of payment option to participants in addition to a lump sum option. The Institute urged that the Service permit employers to select any extended form of payment to satisfy that requirement, regardless of whether it previously had been offered under the plan, so that each employer could choose a benefit option most appropriate for its workforce. The Institute letter also provided two examples of why relief from the anticutback rule is necessary: (1) the accumulation of multiple payment options that occurs in the prototype plan environment, and (2) the complexities that arise in administering accrued benefits frozen to preserve optional forms of benefit under the current rule. Commenting on alternative approaches to relief set forth in Notice 98-29, the Institute suggested that, although any relief from the anticutback rule would be useful, the alternative approaches suggested by the Service would be applicable to only a limited number of plans and would require complicated rules and tests, making them significantly less desirable than the more general relief set forth in the notice. The Institute also recommended that the Service expand the availability of elective transfers, which would promote benefit portability and enhance participants' ability to manage their retirement assets. - 2 - Russell G. Galer Senior Counsel Attachment

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.