

MEMO# 988

February 15, 1989

IRS REVENUE RULING CONCERNING PARTICIPANT LOANS

February 15, 1989 TO: PENSION MEMBERS NO. 10-89 RE: IRS REVENUE RULING CONCERNING PARTICIPANT LOANS

Attached is a copy of IRS Revenue Ruling 89-14, which addresses the status of a participant loan at an unreasonably low interest rate under section 401(a)(13) of the Internal Revenue Code. Section 401(a)(13) states that benefits provided under a qualified plan may not be assigned or alienated. A participant loan secured by the accrued nonforfeitable benefit of the participant is not considered an assignment or alienation, provided that the loan is exempt from the tax on prohibited transactions by reason of section 4975(d)(1) of the Code. In order to qualify for such exemption under section 4975(d)(1)(D), the loan must bear a reasonable rate of interest. The IRS noted that a participant loan must bear a reasonable rate of interest, even where the participant is not a disqualified person under section 4975(e) of the Code, in order to avoid violation of section 401(a)(13). The ruling request apparently stipulated that the loan was made at an unreasonably low interest rate. Accordingly, the IRS held that the benefits were assigned or alienated in violation of section 401(a)(13). We will keep you informed of further developments. Kathy D. Ireland Assistant General Counsel Attachment

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