

MEMO# 10167

July 31, 1998

UPDATE ON STATE LAW CONFORMITY WITH THE ROTH IRA

1 See Institute Memorandum to Pension Members No. 10-98, dated February 4, 1998, Memorandum to Pension Members No. 14-98, dated February 23, 1998, Memorandum to Pension Members No. 20-98, dated March 20, 1998 and Memorandum to Pension Members No. 29-98, dated April 23, 1998. [10167] July 31, 1998 TO: PENSION MEMBERS No. 50-98 PENSION OPERATIONS ADVISORY COMMITTEE No. 34-98 TRANSFER AGENT ADVISORY COMMITTEE No. 46-98 RE: UPDATE ON STATE LAW CONFORMITY WITH THE ROTH IRA

As you were previously informed in recent memoranda¹, most states intend to conform the individual income tax provisions of their tax code to the Internal Revenue Code in order to conform state tax treatment of the Roth IRA with federal tax treatment. A number of states have recently passed such conformity legislation. The attached chart provides information concerning pending conforming legislation for each state and the status of the legislation. Note that since the last memorandum, the conformity legislation in Arizona, Hawaii, Massachusetts, New Jersey and Wisconsin has been signed into law. In addition, the Arkansas Department of Finance and Administration issued an emergency regulation concerning state tax treatment of the Roth IRA. We will continue to monitor the progress of the pending conformity legislation in the remaining jurisdictions, D.C. and North Carolina. Please note the technical corrections legislation to the Taxpayer Relief Act of 1997 recently signed into law by President Clinton will automatically take effect in a majority of the states that passed Roth IRA conformity legislation this session. However, because of the manner in which the conformity legislation was drafted in Alabama, California, Massachusetts and New Jersey, the technical corrections legislation may not automatically become effective in these particular states. The majority of state Roth IRA conformity legislation updated the definitional reference to the Internal Revenue Code in the state income tax code. In general, state income tax codes reference the Internal Revenue Code as amended as of December 31, 1997 or January 1, 1998, depending on the state. Therefore, the Roth IRA provisions of the technical corrections legislation, which have a retroactive effective date, will automatically become effective in these states. However, in California and New Jersey, the conformity legislation added statutory language permitting the Roth IRA to the applicable state income tax code. Therefore, it appears that the Roth IRA provisions included in the technical corrections legislation would not - 2 - automatically become effective in these states, but will require additional legislative action. In Alabama and Massachusetts, the Roth IRA provisions refer to section 408A of the Internal Revenue Code. Therefore, it is unclear whether the technical corrections provisions applicable to the Roth IRA will apply automatically in these states. If you would like copies of any state legislation or have any questions concerning Roth IRA conformity legislation, please call me at (202) 218-3563. Kathryn A. Ricard Assistant Counsel Attachment

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