

**MEMO# 1070**

March 29, 1989

## **IRS NOTICE CONCERNING REQUIRED BEGINNING DATE UNDER CODE SECTION 401(A)(9)**

- 1 - March 29, 1989 TO: PENSION MEMBERS NO. 22-89 RE: IRS NOTICE CONCERNING REQUIRED BEGINNING DATE UNDER CODE SECTION 401(a)(9)

Attached is a copy of IRS Notice 89-42, which provides guidance concerning the required beginning date for minimum distributions from qualified plans and section 403(b) arrangements under section 401(a)(9) of the Internal Revenue Code for certain individuals. Prior to the 1986 Tax Reform Act, employees who were not five percent owners were required to begin receiving distributions from their qualified plans not later than April 1 of the calendar year following the later of (1) the calendar year in which the employee attained age 70-1/2, or (2) the calendar year in which the employee retired. The 1986 Tax Reform Act amended section 401(a)(9) to require generally that distributions from qualified plans and section 403(b) arrangements must begin by April 1 of the calendar year following the calendar year in which the employee attained age 70-1/2, regardless of when he or she retired, effective for years beginning after December 31, 1988. Grandfather treatment was provided to allow limited reliance on the retirement year delay, but only with respect to employees who attained age 70-1/2 before January 1, 1988 and are not five percent owners. Accordingly, proposed regulations under section 401(a)(9) provided that all employees attaining age 70- 1/2 in 1988 must begin receiving distributions by April 1, 1989, even if they are not separated from service. Notice 89-42 explains, however, that the effective date of the repeal of the retirement year delay of section 401(a)(9)(c)(ii) is January 1, 1989 for calendar year taxpayers. Thus, an employee who attained age 70-1/2 in 1988, is not a five percent owner, and who had not retired by January 1, 1989 will be treated under the final regulations as having retired on January 1, 1989. The required beginning date for such employees therefore will be April 1, 1990. - 2 - We will keep you informed of further developments.

Kathy D. Ireland Assistant General Counsel Attachment