

MEMO# 9204

September 4, 1997

DELAWARE LAW PROTECTS IRAS IN BANKRUPTCY

1 See Institute Memorandum to Operations Members No. 11-97, Pension Members No. 20-97, Tax Members No. 17-97, Transfer Agent Advisory Committee No. 23-97 and Pension Operations Advisory Committee No. 13-97, dated May 23, 1997. [9204] September 4, 1997 TO: OPERATIONS MEMBERS No. 17-97 PENSION MEMBERS No. 39-97 PENSION OPERATIONS ADVISORY COMMITTEE No. 32-97 TAX MEMBERS No. 34-97 TRANSFER AGENT ADVISORY COMMITTEE No. 44-97 RE: DELAWARE LAW PROTECTS IRAs IN BANKRUPTCY

Delaware earlier this year enacted legislation protecting assets held in qualified retirement plans, including Individual Retirement Account assets, from execution or attachment by creditors. Specifically, the legislation protects all IRA and other retirement plan assets from execution or attachment. It similarly protects eligible rollover distributions from retirement plans or IRA rollover contributions in the sixty-day period during which such assets may not actually be in the retirement plan trust or IRA account. Previously, Delaware had no law protecting IRAs from creditors. This memorandum updates the 1997 Institute Survey of IRA Protection In Bankruptcy.¹ We continue to request that members with news of any relevant legislation or court decisions regarding the status of IRAs under State bankruptcy and creditor law. We will keep you informed of developments. Russell G. Galer Assistant Counsel - Pension Attachment (in .pdf format)

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