

MEMO# 18939

June 14, 2005

DRAFT LETTER TO PENNSYLVANIA DEPARTMENT OF REVENUE REGARDING PROPOSED WITHHOLDING PROVISION

©2005 Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice. [18939] June 14, 2005 TO: PENSION COMMITTEE No. 21-05 PENSION OPERATIONS ADVISORY COMMITTEE No. 19-05 RE: DRAFT LETTER TO PENNSYLVANIA DEPARTMENT OF REVENUE REGARDING PROPOSED WITHHOLDING PROVISION The Pennsylvania General Assembly is considering H.B. 1557, comprehensive tax reform legislative that includes section 324.81, which would require withholding on early distributions from qualified plans, IRAs and commercial annuities. Payors would have to withhold on early distributions to the extent that withholding would be required if the distribution were a payment from employer to employee. Federal law and every state except Pennsylvania defer taxation on contributions to a qualified plan. If section 324.8 were enacted, Pennsylvania plan participants would be taxed twice on qualified plan contributions unless Pennsylvania taxable basis is tracked. Pennsylvania does not have a system established for Pennsylvania taxpayers to recover over- withheld amounts. The attached letter urges that section 324.8 be removed from H.B. 1557 because it would require that payors either make costly modifications to their systems in order to track Pennsylvania taxable basis or withhold on 100% of early distributions. In the alternative, the letter proposes delaying enactment of section 324.8 until Pennsylvania has established a mechanism for Pennsylvania taxpayers to recover over-withheld amounts and to educate taxpayers regarding the implications of the new withholding rules. This letter will be submitted to the Pennsylvania Department of Revenue and relevant members of the Pennsylvania General Assembly on the morning of June 15, 2005. Please call me at 202-326-5835 or e-mail me at lrobinson@ici.org by close of business today, June 14, 2005, with any comments. Lisa Robinson Associate Counsel Attachment (in .pdf format) 1 Go to <http://www2.legis.state.pa.us/WU01/LI/BI/BT/2005/0/HB1557P1932.pdf> to see HB 1557 Section 324.8 begins on page 15 of the bill.