

MEMO# 16573

September 24, 2003

DRAFT COMMENT LETTER RESPONDING TO NOTICE 2003-53 REGARDING FORMS 1099-Q AND 5498-ESA

[16573] September 24, 2003 TO: 529 PLAN ADVISORY COMMITTEE No. 54-03 OPERATIONS COMMITTEE No. 19-03 PENSION COMMITTEE No. 35-03 PENSION OPERATIONS ADVISORY COMMITTEE No. 60-03 TAX COMMITTEE No. 60-03 TRANSFER AGENT ADVISORY COMMITTEE No. 88-03 RE: DRAFT COMMENT LETTER RESPONDING TO NOTICE 2003-53 REGARDING FORMS 1099-Q AND 5498-ESA Earlier this year the IRS released Forms 1099-Q and 5498-ESA¹, which imposed new reporting requirements with respect to Coverdell ESAs, including a requirement that ESA custodians track earnings and basis for ESA accounts. In response to comment letters, including one submitted by the Institute², the Service issued Notice 2003-53³, which delayed the imposition of these requirements. Notice 2003-53 requested comments regarding the new forms. In the attached comment letter, which reflects the comments of members made during our most recent conference call on this issue, the Institute urges the following: Maintain the pre-existing reporting regime for ESA accounts, where basis and earnings calculations are the responsibility of each account holder. If new reporting requirements are imposed, make them applicable only on a prospective basis to new accounts opened after a transition period sufficient to permit record keepers to accurately track and report earnings and basis. 1 See Institute Memorandum (No. 15656) to 529 Plan Advisory Committee No 11-03, Operations Members No. 6-03, Pension Members No. 9-03, Pension Operations Advisory Committee No. 8-03, Tax Members No. 11-03 and Transfer Agent Advisory Committee No. 19-03, dated February 19, 2003. 2 See Institute Memorandum (No. 15981) to 529 Plan Advisory Committee No 25-03, Operations Members No. 13-03, Pension Members No. 19-03, Pension Operations Advisory Committee No. 23-03, Tax Members No. 26-03 and Transfer Agent Advisory Committee No. 42-03, dated April 30, 2003. 3 See Institute Memorandum (No. 16405) to 529 Plan Advisory Committee No 43-03, Operations Members No. 22-03, Pension Members No. 36-03, Pension Operations Advisory Committee No. 48-03, Tax Members No. 42-03 and Transfer Agent Advisory Committee No. 72-03, dated August 4, 2003. 2 Clarify the rules for tracking earnings and basis (Notice 2001-81). Clarify several technical questions regarding Forms 5498-ESA and 1099-Q. Please provide me with any comments regarding this draft letter by close of business Friday, September 26, 2003. You may contact me at 202-326-5835 or lrobinson@ici.org. Lisa Robinson Assistant Counsel Attachment Attachment (in .pdf format)

should not be considered a substitute for, legal advice.