

**MEMO# 28176**

June 10, 2014

# **Institute Recommendations for IRS 2014-2015 Guidance Priority List - Tax Issues**

[28176]

June 10, 2014

TO: 529 PLAN MEMBERS No. 11-14  
ACCOUNTING/TREASURERS MEMBERS No. 7-14  
ADVISER DISTRIBUTOR TAX ISSUES TASK FORCE No. 8-14  
BDAC COST BASIS REPORTING TASK FORCE No. 1-14  
BANK, TRUST AND RETIREMENT ADVISORY COMMITTEE No. 23-14  
BROKER/DEALER ADVISORY COMMITTEE No. 30-14  
INTERNATIONAL MEMBERS No. 20-14  
OPERATIONS COMMITTEE No. 28-14  
SMALL FUNDS COMMITTEE No. 13-14  
TAX MEMBERS No. 15-14  
TRANSFER AGENT ADVISORY COMMITTEE No. 32-14 RE: INSTITUTE RECOMMENDATIONS  
FOR IRS 2014-2015 GUIDANCE PRIORITY LIST - TAX ISSUES

The Institute has submitted the attached recommendations of tax issues for inclusion on the Internal Revenue Service ("IRS") and Treasury Department's 2014-2015 Guidance Priority List. [\[1\]](#) The IRS and Treasury Department use the Guidance Priority List to identify and prioritize the tax issues that should be addressed through published guidance. The ICI has been recommending items for inclusion on this Guidance Priority List for more than ten years.

The Institute first urges the IRS and Treasury Department to provide guidance on five important issues to the regulated investment company ("RIC") industry:

- EU Reclaims;
- FATCA;
- Controlled Group Regulations;
- Money Market Fund Reform; and
- Guidance on Asset Diversification.

We then ask the government to issue guidance on several items currently on the 2013-2014 Guidance Priority List:

- Cost Basis Reporting;
- Items Related to the RIC Modernization Act of 2010;
- Distressed Debt;
- Notional Principal Contracts; and
- Prepaid Forward Contracts.

The Institute also asks for guidance on a number of other issues affecting RICs and their shareholders:

- Application of the business continuity requirement for tax-free mergers of RICs;
- Investment in commodities by RICs through controlled foreign corporations (“CFCs”) and commodity linked notes (“CLNs”);
- Application of the ownership tracking requirements under sections 382 and 383 to participant-directed retirement accounts holding RIC shares and variable insurance products;
- Issues regarding passive foreign investment companies (PFICs);
- RIC investments in partnerships with different taxable year-ends;
- Issues relating to excess inclusion income of a real estate investment trust (REIT) that is a taxable mortgage pool; and
- Coordination of the entity classification election under the check-the-box regulations with the RIC election under section 851(b)(1).

Finally, the Institute recommends that the government address various issues regarding (1) section 529 qualified tuition programs, and (2) the Report of Foreign Bank and Financial Accounts, Form TD-F 90-22.1 (FBAR).

Ryan Lovin  
Assistant Counsel – Tax Law

## [Attachment](#)

### **endnotes**

[\[1\]](#) The IRS and Treasury Department requested recommendations for the Guidance Priority List in Notice 2014-18. The Institute’s recommendations on pension issues are discussed in a separate letter.