

MEMO# 30675

April 19, 2017

New York State Letter Regarding 2015 Taxable Year

[30675]

April 19, 2017 TO: ICI Members SUBJECTS: Tax RE: New York State Letter Regarding 2015 Taxable Year

As we previously informed you, New York State recently amended its laws to resolve a tax issue affecting regulated investment companies (“RICs”) and real estate investment trusts (“REITs”).^[1] Pursuant to these changes, RICs and REITs now are subject to a minimum tax of no more than \$500 (for New York receipts of more than \$500,000). Alternatively, RICs and REITs may use a prescribed 8% New York receipts factor for purposes of apportionment.^[2] These provisions are effective for taxable years beginning on or after January 1, 2016.

The Department of Taxation and Finance (the “Department”) has provided the attached letter regarding the taxable year beginning on or after January 1, 2015, and before January 1, 2016. For this year only, the Department will permit RICs and REITs to use the 8% receipts factor for purposes of apportionment, even if the taxpayer was not otherwise eligible to make this fixed percentage election under the law before it was amended for the tax year 2016.

The letter notes that although the new fixed dollar minimum tax schedule takes effect for taxable years beginning on or after January 1, 2016, the Department’s systems have not yet been updated and thus will process returns under the prior law. Taxpayers should use the new schedule to calculate the amount of fixed dollar minimum due, if applicable; however, it may appear to the Department’s system that the taxpayer has underreported the amount of tax due. Taxpayers thus may receive notices from the Department requesting the payment of additional tax. Taxpayers that receive such correspondence should contact the Department to cancel the erroneous notices.

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Associate General Counsel

[Attachment](#)

endnotes

[1] See Institute [Memorandum No. 30668](#), dated April 6, 2017.

[2] The 8% apportionment factor originally applied only to financial instruments that were marked to market under section 475 or section 1256 of the Internal Revenue Code. The revisions to the law now permit RICs and REITs to use the 8% apportionment factor without regard to whether sections 475 and 1256 apply.

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