

MEMO# 26059

April 17, 2012

Draft ICI Recommendations for 2012-2013 IRS Guidance Priority List - Comments Requested

[26059]

April 17, 2012

TO: ADVISER DISTRIBUTOR TAX ISSUES TASK FORCE No. 5-12
TAX COMMITTEE No. 22-12 RE: DRAFT ICI RECOMMENDATIONS FOR 2012-2013 IRS
GUIDANCE PRIORITY LIST - COMMENTS REQUESTED

The Internal Revenue Service (“IRS”) and the Treasury Department have asked for recommendations for the 2012-2013 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. Attached for your review is a draft letter setting forth the Institute’s recommendations.

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

- Commodity funds; and
- Cost basis reporting.

We then ask the government to issue guidance on several items currently on the 2011-2012 Guidance Priority List:

- Items Related to the RIC Modernization Act of 2010;
- Distressed Debt;
- Notional Principal Contracts;
- Prepaid Forward Contracts; and
- Taxpayer Identification Number (TIN) Masking.

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;
- 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).

The IRS and Treasury Department have asked that all recommendations be provided by May 1, 2012. Therefore, please provide any comments on the draft letter to me (202-371-5432 or kgibian@ici.org) no later than Tuesday, April 24, 2012. We also will discuss the letter on the Tax Committee call on Monday, April 23. [\[2\]](#)

Karen Lau Gibian
Associate Counsel

[Attachment](#)

endnotes

[\[1\]](#) See Notice 2012-25, which can be found on the IRS website [here](#).

[\[2\]](#) See Institute [Memorandum](#) (26057) dated April 17, 2012.

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