

**MEMO# 22434**

April 21, 2008

# **ICI Requests Guidance Clarifying Minimum Gain Share Percentage for Tender Option Bonds Under Rev. Proc. 2003-84**

[22434]

April 21, 2008

TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 14-08  
FIXED-INCOME ADVISORY COMMITTEE No. 10-08  
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 8-08  
MUNICIPAL SECURITIES ADVISORY COMMITTEE No. 19-08  
TAX MEMBERS No. 13-08 RE: ICI REQUESTS GUIDANCE CLARIFYING MINIMUM GAIN  
SHARE PERCENTAGE FOR TENDER OPTION BONDS UNDER REV. PROC. 2003-84

The Investment Company Institute submitted a letter (attached) requesting clarification of a discrete issue affecting synthetic tax-exempt variable rate instruments (“Synthetic Munis”), more commonly known as tender option bonds. Specifically, we requested that Treasury promptly issue guidance clarifying the minimum gain participation (“gain share”) necessary for a Synthetic Muni to qualify as a partnership eligible for Rev. Proc. 2003-84’s [\[1\]](#) monthly closing election.

The Institute previously has requested guidance, including Rev. Proc. 2003-84, to ensure that funds investing in tax-exempt securities have sufficient and stable investment opportunities [\[2\]](#). The attached letter seeks to address market uncertainty resulting from divergent views regarding the minimum acceptable gain share. Our letter notes that most Synthetic Munis (about 98%, based on member estimates) provide floating rate holders with at least a five percent gain share. However, in some cases the gain share is less.

We also request that Treasury issue any guidance prospectively to avoid adversely impacting the market.

Lisa Robinson  
Associate Counsel

## [Attachment](#)

### **endnotes**

[1] See Institute [Memorandum](#) (16745) to Tax Members No. 60-03, Money Market Funds Advisory Committee No. 18-03, and Fixed-Income Advisory Committee No. 16-03, dated November 6, 2003.

[2] See Institute [Memorandum](#) (15444) to Tax Members No. 50-02, Money Market Funds Advisory Committee No. 9-02, and Fixed-Income Advisory Committee No. 15-02, dated December 10, 2002; Institute Memorandum (15245) to Tax Committee No. 30-02, Money Market Funds Advisory Committee No. 5-02, and Fixed-Income Advisory Committee No. 11-02, dated October 9, 2002; Institute [Memorandum](#) (15246) to Tax Members No. 43-02, dated October 8, 2002; Institute Memorandum (14661) to Fixed-Income Advisory Committee No. 5-02, Money Market Funds Advisory Committee No. 1-02, and Tax Committee No. 12-02, dated April 22, 2002; and Institute [Memorandum](#) (14476) to Tax Members No. 8-02, dated February 22, 2002.