

**MEMO# 22019**

December 6, 2007

# **Institute Letter to Finance Committee Regarding Mandatory Cost Basis Reporting**

[22019]

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TO: FEDERAL LEGISLATION MEMBERS No. 12-07  
TAX MEMBERS No. 53-07  
OPERATIONS MEMBERS No. 27-07  
SMALL FUNDS MEMBERS No. 109-07  
BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 54-07  
BROKER/DEALER ADVISORY COMMITTEE No. 74-07  
TRANSFER AGENT ADVISORY COMMITTEE No. 86-07    RE: INSTITUTE LETTER TO FINANCE  
COMMITTEE REGARDING MANDATORY COST BASIS REPORTING

Institute President Paul Schott Stevens submitted the attached letter to the two most senior members of the Senate Finance Committee regarding the mandatory cost basis provisions contained in H.R. 3996, "The Temporary Tax Relief Act of 2007." The House of Representatives passed this bill on November 9, 2007. [\[1\]](#) The letter urges the Committee to accept, with certain changes recommended by the Institute, the basis reporting provisions as passed by the House of Representatives in H.R. 3996.

The letter first emphasizes the importance of the February 15 reporting deadline included in H.R. 3996. It then describes several changes that must be made to the legislation to ensure that the basis reporting regime is administrable.

First, the Institute recommends that the basis reporting legislation address situations in

which a cost basis statement must be amended after it has been sent to shareholders because of transactions or events that take place after the tax year in which the fund shares are sold. The letter points specifically to the issue of returns of capital; the Institute recommends that a fund generally allocate returns of capital first to distributions made during the portion of the fund's taxable year occurring during the calendar year in which the taxable year ends.

The letter then recommends three other technical amendments (described in the appendix to the letter). These are:

- Changes that would (1) treat an existing account as three separate accounts (one account for shares purchased before January 1, 2009, a second account for shares acquired after December 31, 2008, and before January 1, 2011, and a third account for shares acquired after December 31, 2010); and (2) permit funds to elect to combine shares in two or three of these accounts in the same account.
- Inclusion of gifted and inherited shares in the basis reporting regime with appropriate default rules for such shares.
- An amendment that would apply the same basis reporting method to all regulated investment companies (as defined in section 851 of the Internal Revenue Code), rather than just to open-end funds.

Karen Lau Gibian  
Associate Counsel

## [Attachment](#)

### **endnotes**

[\[1\]](#) See Institute [Memorandum](#) (21952) to Bank, Trust and Recordkeeper Advisory Committee No. 50-07, Broker/Dealer Advisory Committee No. 71-07, Federal Legislation Members No. 11-07, International Members No. 33-07, Operations Members No. 25-07, Pension Members No. 67-07, Small Funds Members No. 107-07, Tax Members No. 50-07, and Transfer Agent Advisory Committee No. 80-07, dated November 14, 2007.