

MEMO# 25364

July 28, 2011

ICI Comment Letter on Cost Basis Reporting

[25364]

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TO: BDAC COST BASIS REPORTING TASK FORCE No. 21-11
BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 44-11
BROKER/DEALER ADVISORY COMMITTEE No. 45-11
OPERATIONS MEMBERS No. 15-11
SMALL FUNDS MEMBERS No. 53-11
TAX MEMBERS No. 25-11
TRANSFER AGENT ADVISORY COMMITTEE No. 60-11 RE: ICI COMMENT LETTER ON COST BASIS REPORTING

The Institute has submitted the attached letter to the Internal Revenue Service (the “IRS”) and Department of the Treasury regarding Notice 2011-56 [\[1\]](#) and other cost basis reporting issues. Specifically, the letter expresses the Institute’s strong support for the guidance provided in Notice 2011-56 and recommends that the IRS and Treasury Department adopt those rules in final regulations, with a few minor changes to the terminology used in the Notice. The letter also addresses several other cost basis reporting issues for which we believe additional guidance should be provided.

First, the Institute asks the IRS and Treasury Department to reconsider its requirement that a shareholder who elects to use the average cost method, revokes such election, or changes from the average cost method (whether the broker default or a shareholder election) must do so in writing. Requiring such elections, revocations, and changes in writing is unnecessarily burdensome and potentially costly for shareholders. The Institute instead proposes that the IRS and Treasury Department permit brokers to provide a written confirmation to shareholders of a cost basis method election, revocation, or change, in lieu of a written notification by the shareholder.

Second, the Institute asks the government to clarify that brokers may use any basis method as their default method for shares in a regulated investment company (a “RIC”), including first-in, first-out (FIFO), average cost, or any other formulaic method (such as highest-in, first-out, or HIFO), as clearly intended by Congress.

Third, we ask the government to provide that gifted shares will have a carryover holding

period, even if the shares were gifted at a loss (i.e., the cost basis of the gifted shares exceeds the fair market value on the date of gift) and the donee subsequently sells the shares at a loss.

Fourth, we ask the IRS and Treasury Department to provide that, for cost basis reporting purposes, shares acquired by an estate after the decedent's death have a basis equal to the fair market value on the date of acquisition, unless the broker receives other information from an estate representative.

Finally, the Institute asks the government to (i) clarify whether RIC liquidating distributions are subject to cost basis reporting and, (ii) if so, amend Forms 1099-B and 1099-DIV, and the accompanying instructions, to specify that liquidating distributions by RICs should be reported on Form 1099-B, so that brokers can properly report cost basis information for such distributions.

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Associate Counsel

[Attachment](#)

endnotes

[1] See Institute [Memorandum](#) (25294) to BDAC Cost Basis Reporting Task Force No. 15-11, Bank, Trust and Recordkeeper Advisory Committee No. 36-11, Broker/Dealer Advisory Committee No. 37-11, Operations Members No. 13-11, Small Funds Members No. 44-11, Tax Members No. 19-11, and Transfer Agent Advisory Committee No. 48-11, dated June 22, 2011.

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