

MEMO# 24800

December 17, 2010

Legislation Enacted to Extend Tax Provisions Benefiting Fund Shareholders

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TO: TAX MEMBERS No. 41-10
PENSION MEMBERS No. 62-10
INTERNATIONAL MEMBERS No. 28-10
ACCOUNTING/TREASURERS MEMBERS No. 45-10
INVESTMENT COMPANY DIRECTORS No. 34-10
ADVISER DISTRIBUTOR TAX ISSUES TASK FORCE No. 14-10 RE: LEGISLATION ENACTED TO
EXTEND TAX PROVISIONS BENEFITING FUND SHAREHOLDERS

We are very pleased to inform you that legislation extending several tax provisions beneficial to fund shareholders received final Congressional approval and will be signed into law today by President Obama. Many of the provisions in The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 ("the Act") [\[1\]](#) were pursued actively by the ICI.

Maximum Tax Rate on Capital Gains and Qualified Dividends

The Act (in Section 102) extends for two years, through December 31, 2012, the reduced tax rates on long-term capital gains and qualified dividends. For investors taxed at a rate in excess of 15 percent, the maximum tax rate on long-term capital gains and qualified dividend income earned during this period will be 15 percent. For investors taxed at a rate of 15 percent or less, the tax rate on this income will continue to be zero.

Flow-Through of Interest and Short-Term Gains to Foreign Shareholders

The Act (in Section 748) extends for two years the exemption from withholding taxes for interest and short-term capital gains paid by regulated investment companies (“RICs”) to foreign shareholders under Code sections 871(k)(1) and (2). This exemption applies to dividends with respect to taxable years of RICs beginning before January 1, 2012.

Two related provisions also are included in the Act. First, the Act (in Section 726) extends for two years the provision under Code section 2105(d) that treats stock in certain RICs as not deemed

property within the United States for purposes of determining the estate of a nonresident not a citizen. This exemption applies to decedents dying before January 1, 2012. Second, the Act (in Section 749) extends for two years to RICs certain REIT-related provisions of Code section 897 (the Foreign Investment in Real Property Tax Act of 1980, or FIRPTA).

Active Finance Exception

The Act (in Section 750) extends for two years the present-law exception from Subpart F for certain income from the active conduct of a banking, financing, or similar business or from an insurance business. This extension applies to taxable years beginning before 2012.

Extension of EGTRRA Coverdell ESA provisions

The Act (in Section 101) includes a two-year extension of the changes made by EGTRRA to the rules governing Coverdell Education Savings Accounts, which were due to expire at the end of 2010. EGTRRA, for example, increased the limit on contributions from \$500 to \$2000 and provided that certain elementary and secondary school expenses qualify for tax-free distribution.

Extension of Tax-Free Distributions from IRAs for Charitable Purposes

The Act (in Section 725) extends the exclusion for qualified charitable distributions to distributions from IRAs described in Code section 408(d)(8), which expired at the end of 2009. Under the Act, distributions made in taxable years beginning after December 31, 2009 and before January 1, 2012 are eligible for the exclusion. Congress included a transition provision allowing taxpayers to elect (pursuant to the form prescribed by Treasury) to have qualified charitable distributions made in January 2011 treated as having been made on December 31, 2010. This would allow, for example, a taxpayer to have a qualified charitable distribution made in January 2011 used to satisfy the taxpayer’s minimum distribution requirement for 2010.

Build America Bond Extension NOT in Bill

The Act does not extend the “build America bond” tax provisions. These bonds were issued by state and local governments and paid taxable interest (with the state and local governments receiving a payment from the Federal government).

Keith Lawson
Senior Counsel - Tax Law Mike Hadley
Associate Counsel - Pension Regulation

endnotes

[1] The legislation (H.R. 4853) can be accessed at <http://www.gpo.gov/fdsys/pkg/BILLS-111hr4853eas2/pdf/BILLS-111hr4853eas2.pdf>. The Technical Explanation of the legislation prepared by the Joint Committee on Taxation can be accessed at <http://www.jct.gov/publications.html?func=startdown&id=3716>.

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