

MEMO# 23755

September 2, 2009

Draft ICI Letter Requesting Extension of IRS' ARPS Guidance; Comments Requested

[23755]

September 2, 2009

TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 16-09
TAX COMMITTEE No. 23-09 RE: DRAFT ICI LETTER REQUESTING EXTENSION OF IRS' ARPS
GUIDANCE; COMMENTS REQUESTED

Attached for your review is a draft letter to the Treasury Department and the Internal Revenue Service ("IRS") requesting an extension of the guidance in Notice 2008-55 regarding Auction Rate Preferred Stock ("ARPS"). [\[1\]](#) Notice 2008-55 provides that the IRS will not challenge the equity characterization of ARPS issued by closed-end funds that are supported by a liquidity facility, provided that certain conditions are satisfied. The Notice applies to ARPS that were outstanding on February 12, 2008, and for which a liquidity facility is entered into on or before December 31, 2009.

We understand that the continued state of the credit markets is making it difficult for funds to secure the necessary liquidity facilities, and it is not clear that any such transactions will be completed by the December 31 deadline. Given the continuing uncertainty in the credit markets, the Institute's letter requests a meeting with the Treasury Department and the IRS to discuss an extension, or possibly elimination, of the December 31 deadline. We will propose, at the minimum, an extension of two years, through December 31, 2011. This would allow more time for the credit markets to recover and would give closed-end funds more opportunity to use the guidance set forth in Notice 2008-55.

Please provide any comments to Keith Lawson (202/326-5832 or lawson@ici.org) or me (202/371-5432 or kgibian@ici.org) by the close of business on Thursday, September 3, 2009.

Karen Lau Gibian
Associate Counsel – Tax Law

[Attachment no. 1 \(in .pdf format\)](#)

endnotes

[1] See Institute [Memorandum](#) (22610) to Closed-End Investment Company Members No. 20-08, Tax Members No. 23-08, SEC Rules Members No. 50-08, Fixed-Income Advisory Committee No. 14-08, and Money Market Funds Advisory Committee No. 13-08, dated June 16, 2008.

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