

MEMO# 23562

June 19, 2009

Draft ICI Letter Seeks Clarification Of Tax Reporting Obligations By Business Trusts To Massachusetts

[23562]

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TO: TAX COMMITTEE No. 18-09 RE: DRAFT ICI LETTER SEEKS CLARIFICATION OF TAX
REPORTING OBLIGATIONS BY BUSINESS TRUSTS TO MASSACHUSETTS

Massachusetts enacted legislation last year conforming its entity classification rules to those of federal law. [\[1\]](#) A regulated investment company (“RIC”) organized as a business trust that previously was treated as a corporate trust for Massachusetts tax purposes now will be treated, for tax years beginning on or after January 1, 2009, as a corporation. All RICs remain exempt from the Massachusetts corporation excise tax. [\[2\]](#)

Interpretative issues have arisen from recently-proposed regulations that provide guidance on the new reporting requirements arising from the 2008 legislative change. These interpretative issues were discussed on the last Tax Committee monthly call.

The attached draft letter requests guidance clarifying how the new reporting rules will be applied. Specifically, the guidance requested would (1) clarify the scope of the “publicly-traded RIC” exemption from the annual accounting of earnings and profits, and (2) clarify these RICs’ filing requirements, if any, on Form 355 (the Business or Manufacturing Corporation Excise Return) or Form 355SC (the Domestic or Foreign Security Corporation Return).

Please review the attached letter and provide any comments during the Tax Committee meeting on June 23 or to the undersigned, at lawson@ici.org or 202-326-5832, by close of business on June 24.

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[Attachment](#)

endnotes

[\[1\]](#) St. 2008 Ch. 173, Sec. 38.

[\[2\]](#) 63 MGL sec. 68C(8), as enacted by St. 2008 Ch. 173, Sec. 89, provides in part that “the excise under section 39 shall not apply in the case of a business corporation that is . . . a regulated investment company under section 851 of the Code.”

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