

MEMO# 25334

July 14, 2011

Draft ICI Comment Letter to IRS on Cost Basis Reporting -- Comments Requested by July 21

[25334]

July 14, 2011

TO: BDAC COST BASIS REPORTING TASK FORCE No. 19-11
BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 42-11
BROKER/DEALER ADVISORY COMMITTEE No. 43-11
OPERATIONS COMMITTEE No. 25-11
SMALL FUNDS COMMITTEE No. 27-11
TAX COMMITTEE No. 43-11
TRANSFER AGENT ADVISORY COMMITTEE No. 56-11 RE: DRAFT ICI COMMENT LETTER TO
IRS ON COST BASIS REPORTING -- COMMENTS REQUESTED BY JULY 21

Attached for your review is a draft comment letter to the Internal Revenue Service ("IRS") and Treasury Department regarding Notice 2011-56 [\[1\]](#) and other cost basis reporting issues. Specifically, this letter expresses the Institute's support for the guidance provided in Notice 2011-56, which we believe resolves a significant issue for the industry, and urges the IRS and Treasury Department to adopt such guidance in proposed regulations.

The draft letter also asks the government to issue additional guidance on several cost basis reporting issues. First, we ask the IRS and Treasury Department to eliminate the in-writing requirement for shareholder elections of average cost, revocations of such elections, or any changes from average cost (whether a shareholder election or broker default method). As an alternative to the in-writing requirement, the Institute proposes that brokers be required to provide customers with a written confirmation of the customers' average cost elections, revocations or changes in method.

Second, the draft letter requests clarification that brokers may use any basis method as their default method for mutual fund shares, including first-in, first-out (FIFO), average cost, or any other formulaic method of specific identification, as clearly intended by Congress. Third, we ask the IRS and Treasury Department 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 does not sell the shares at a gain.; Fourth, the letter urges the government to clarify that, for cost basis reporting purposes, shares acquired by an estate after a 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, we urge the IRS to amend Forms 1099-DIV and 1099-B, and the accompanying instructions, to specify that liquidating distributions by RICs should be reported on Form 1099-B, rather than Form 1099-DIV, so that brokers can comply with the cost basis reporting requirements for such distributions.

Please provide any comments to me (202-371-5432 or kgibian@ici.org) no later than the close of business on Thursday, July 21, 2011.

Karen Lau Gibian
Associate Counsel

[Attachment](#)

endnotes

[\[1\]](#) See Institute [Memorandum](#) (25294) to BDAC Cost Basis Reporting Taskforce 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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