

MEMO# 25249

June 3, 2011

IRS 2011-12 Guidance Priority List

[25249]

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TO: 529 PLAN MEMBERS No. 3-11
ACCOUNTING/TREASURERS MEMBERS No. 12-11
INTERNATIONAL MEMBERS No. 22-11
TAX MEMBERS No. 12-11
TRANSFER AGENT ADVISORY COMMITTEE No. 42-11 RE: IRS 2011-12 GUIDANCE PRIORITY LIST

The ICI submitted the attached letter recommending tax issues affecting regulated investment companies ("RICs") and their shareholders for inclusion on the Treasury Department and Internal Revenue Service's 2011-12 Guidance Priority List. The letter asks for guidance on the subjects listed below, some of which have been included in prior requests for guidance. A separate submission includes our recommendations regarding retirement security items.

1. Items Related to the RIC Modernization Act
 - Guidance regarding the effective date of capital loss carryover provision for excise tax purposes;
 - Clarification on the status of bifurcation guidance of Notice 97-64; and
 - Guidance on furnishing written statements to shareholders through web-posting.
2. 2011-12 Guidance Priority List Items
 - Guidance addressing the accrual of interest on distressed debt;
 - Guidance clarifying the tax treatment of notional principal contracts;
 - Guidance clarifying the tax treatment of prepaid forward contracts; and
 - Guidance regarding Section 1256's application to certain derivative contracts.
3. Items on the Application of General Corporate Tax Rules to RICs
 - Guidance clarifying the application of "business continuity" requirements for tax-free mergers; and
 - Guidance permitting a RIC to look-through participant-directed retirement accounts and variable insurance product account owners, for purposes of sections 382 and 383, and treat each participant/investor who holds less than five percent of the RIC's shares as part of the RIC's direct public group.

4. Items Involving RIC Portfolio Investments

- Guidance providing additional rules regarding RIC investments in passive foreign investment companies (PFICs);
- Guidance permitting a RIC that invests in a partnership with a tax year different from the RIC's to take partnership items into income at the end of each month, rather than at year-end; and
- Guidance clarifying issues relating to excess inclusion income of a REIT that is taxable mortgage pool ("TMP") or that has a qualified REIT subsidiary that is a TMP.

5. Guidance that coordinates the entity classification election under the check-the-box regulations with the RIC election.

6. Items Related to Information Reporting

- Guidance exempting from Schedule UTP reporting positions for which no FIN 48 liability is recorded because of administrative practice; and
- Guidance making permanent the pilot program permitting information return filers to "mask" the full Social Security number on certain forms mailed to investors.

7. Guidance on issues regarding section 529 qualified tuition plans.

8. Items Related Foreign Bank and Financial Account Reporting (FBAR)

- Guidance clarifying the status of certain segregated-account custodial arrangements;
- Guidance clarifying the application of the reporting exception for officers and employees of financial institutions to officers and employees of investment companies;
- Guidance clarifying the application of the signature authority reporting exception to officers and employees of a parent company with U.S. and foreign subsidiaries;
- Guidance extending the signature authority reporting exception to officers and employees of a subsidiary with signature or other authority over accounts of the parent or other subsidiary;
- Guidance reinstating the signature authority reporting exception for officers and employees of foreign subsidiaries that was included in the instructions to the 2008 version of the FBAR; and
- Guidance extending the signature authority reporting exception for authorized service providers to officers and employees of bank-affiliated service providers.

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[Attachment](#)

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