

MEMO# 21170

May 21, 2007

U.S. Supreme Court Grants Certiorari to Review Davis v. Kentucky Decision

[21170]

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TO: FIXED-INCOME ADVISORY COMMITTEE No. 12-07
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 11-07
TAX MEMBERS No. 20-07 RE: U.S. SUPREME COURT GRANTS CERTIORARI TO REVIEW
DAVIS V. KENTUCKY DECISION

The U.S. Supreme Court has granted certiorari to review the Kentucky Appeals Court's decision in Davis v. Department of Revenue [\[1\]](#) (see page 2 of attached docket sheet). The Appeals Court held that Kentucky's tax on interest income derived from bonds issued by states other than Kentucky is facially discriminatory in violation of the Commerce Clause. [\[2\]](#) The Kentucky statute exempts from Kentucky taxation interest income derived from bonds issued by Kentucky or its subdivisions; interest income derived from bonds issued by other states or their subdivisions is taxable.

If the Kentucky statute is invalidated, Kentucky could provide equal tax treatment to all municipal bonds by either taxing interest on all such bonds or providing tax-free treatment for all such bonds. In addition, refunds may be sought by Kentucky taxpayers who held out-of-state bonds.

Lisa Robinson
Associate Counsel

[Attachment](#)

endnotes

[1] The Kentucky Supreme Court declined review. See Institute [Memorandum](#) (20310) to Fixed-Income Advisory Committee No. 4-06, Money Market Funds Advisory Committee No. 2-06 and Tax Members No. 30-06, dated August 23, 2006.

[2] See Institute [Memorandum](#) (19632) to Fixed-Income Advisory Committee No. 2-06, Money Market Funds Advisory Committee No. 1-06 and Tax Members No. 4-06, dated January 26, 2006. Go to <http://opinions.kycourts.net/coa/2004-ca-001940.pdf> to read the Kentucky Appeals Court case.

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