

**MEMO# 24322**

May 25, 2010

## **Institute Submits Additional Comments on Proposed Cost Basis Reporting Requirements**

[24322]

May 25, 2010

TO: BROKER/DEALER ADVISORY COMMITTEE No. 15-10  
BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 12-10  
OPERATIONS MEMBERS No. 6-10  
SMALL FUNDS MEMBERS No. 34-10  
TAX MEMBERS No. 15-10  
TRANSFER AGENT ADVISORY COMMITTEE No. 26-10    RE: INSTITUTE SUBMITS ADDITIONAL  
COMMENTS ON PROPOSED COST BASIS REPORTING REQUIREMENTS

The Institute has submitted additional comments (attached) to the Internal Revenue Service (the “IRS”) and the Treasury Department on the proposed regulations on cost basis reporting. [\[1\]](#) Specifically, the Institute urges the IRS and Treasury Department to adopt workable default rules for gifted and inherited shares. The regulations as proposed by the government raise a number of significant implementation and calculation issues for brokers, including mutual funds. Pursuant to the Institute’s proposed default rules, brokers would:

- For inherited shares, adjust the cost basis to the fair market value on the date of death; the holding period would be long-term.
- For gifted shares, carry over the donor’s basis and holding period.

For both gifted and inherited shares, brokers would be permitted to use information provided by shareholders or third parties if the default basis information is incorrect.

Also, the Institute’s letter clarifies a comment made in our February 8 letter regarding the

need to send transfer statements for recipients exempt from reporting under section 6045. In addition to exempt recipients, applicable persons should not be required to send transfer statements for any of the exceptions to information reporting under section 6045, including money market funds. The requirement to send transfer statements for transfers of money market fund accounts, as with exempt recipients, is unnecessary and overly burdensome.

Finally, the Institute argues that tax-advantaged retirement account custodians or trustees should not be designated as “applicable persons” for purposes of the transfer reporting rules, as suggested by another commenter, when a shareholder takes an in-kind distribution from a tax-advantaged retirement account. The Institute first asks the IRS and Treasury Department to clarify whether shares distributed in-kind from a tax-advantaged retirement account into a taxable account are “acquired” when they are distributed, thus becoming “covered securities” that are subject to cost basis reporting. If such shares do become covered securities upon an in-kind distribution, custodians and trustees for such tax-advantaged retirement accounts should not be required to provide basis information upon such distributions. The systems used to calculate and report cost basis will not include such accounts; programming to include them will be difficult, costly and largely unnecessary, as these types of transactions occur very infrequently.

Karen Lau Gibian  
Associate Counsel – Tax Law

#### [Attachment](#)

#### **endnotes**

[1] For the Institute’s initial comment letter, see Institute [Memorandum](#) (24133) to Broker/Dealer Advisory Committee No. 6-10, Bank, Trust and Recordkeeper Advisory Committee No. 5-10, Operations Members No. 1-10, Small Funds Members No. 11-10, Tax Members No. 4-10, and Transfer Agent Advisory Committee No. 9-10, dated February 12, 2010.