

**MEMO# 6463**

December 15, 1994

## **DRAFT INSTITUTE COMMENT LETTER ON NONRESIDENT ALIEN WITHHOLDING**

ACTION REQUESTED December 15, 1994 VIA FAX TO: OPERATIONS COMMITTEE No. 33-94  
TAX COMMITTEE No. 37-94 TRANSFER AGENT ADVISORY COMMITTEE No. 48-94 TASK  
FORCE ON NONRESIDENT ALIEN WITHHOLDING RE: DRAFT INSTITUTE COMMENT LETTER ON  
NONRESIDENT ALIEN WITHHOLDING

\_\_\_\_\_ As we  
previously informed you, the Internal Revenue Service ("IRS") for several years has been studying tax compliance issues relating to nonresident alien ("NRA") investors with a view toward revising the tax withholding regulations under Internal Revenue Code section 1441. The IRS has indicated that it hopes to issue new proposed regulations in the near future. The IRS is considering extensive changes to the current rules governing NRA investors. Major aspects of the proposal under consideration include: 1. All NRA investors receiving U.S. source income would be required to obtain a U.S. Taxpayer Identification Number ("TIN"). Backup withholding would apply to any payments made to foreign investors who do not supply a TIN to the payor. 2. NRA investors could obtain TINs directly from the IRS or by submitting an application to a foreign or domestic financial institution that has entered into an agreement with the IRS to act as an agent for the IRS' in receiving and processing TIN applications. U.S. mutual funds or broker-dealers would be eligible to process TIN applications for NRA investors. 3. NRA investors seeking a TIN would have to supply supporting documents establishing their identity and foreign residence. Such documentation might include passports, birth certificates or identification cards issued by a foreign government. 4. NRA investors seeking treaty rate withholding would be required to prove that they are entitled to treaty benefits when they apply for a TIN. 5. Foreign financial institutions would have to indicate whether they hold investments for their own account or as a nominee. An institution holding investments as a nominee under some circumstances would be able to provide a single certification that all beneficial owners it represents are NRA investors, and could indicate whether those investors are entitled to treaty benefits. Attached is a draft letter commenting on the IRS proposal. Please provide any comments regarding the draft letter to the undersigned, by 12:00 noon on December 23, 1994. (Phone 202-326- 5837; Fax 202-326-5841). We will keep you informed of further developments.  
Peter J. Cinquegrani Assistant Counsel-Tax Attachments