

MEMO# 15777

March 19, 2003

IRS ISSUES FINAL REGULATIONS REGARDING CERTAIN ASSET TRANSFERS TO REGULATED INVESTMENT COMPANIES

[15777] March 19, 2003 TO: ACCOUNTING/TREASURERS COMMITTEE No. 12-03 TAX MEMBERS No. 17-03 RE: IRS ISSUES FINAL REGULATIONS REGARDING CERTAIN ASSET TRANSFERS TO REGULATED INVESTMENT COMPANIES The Internal Revenue Service (“IRS”) has issued final regulations¹ under section 337(d) of the Internal Revenue Code (the “final regulations”) relating to the proper tax treatment of C corporation assets that become assets of a regulated investment company (“RIC”) or a real estate investment trust (“REIT”) either by (1) the qualification of the C corporation as a RIC or REIT or (2) the transfer of assets of a C corporation to a RIC or REIT in a carryover basis transaction. The final regulations adopt the temporary and proposed regulations that were issued by the IRS under section 337(d) on January 2, 2002,² with the following modifications. As requested by the Institute, the final regulations clarify that the use of loss carryforwards for purposes of the section 1374 tax does not change the extent to which such loss carryforwards can be used for purposes of subchapter M. The final regulations also extend the time for making the section 1374 election under section 1.337(d)-6 (which applies to transactions occurring before January 2, 2002) from March 15, 2003 to September 15 2003 and contain several clarifications regarding the application of the final regulations to partnerships. Catherine Barré Assistant Counsel Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 15777, or call the ICI Library at (202) 326-8304 and request the attachment for memo 15777. Attachment (in .pdf format) 1 The final regulations are attached to the electronic version of this memorandum and are available at <http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-6221.pdf>. 2 See Institute Memoranda to Accounting/Treasurers Committee No. 2-02 and Tax Members No. 1-02, dated January 4, 2002.

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