

MEMO# 2139

August 24, 1990

PFIC SURVEY

- 1 - August 24, 1990 TO: MEMBERS - ONE PER COMPLEX NO. 36-90 RE: PFIC SURVEY

As you may know, the passive foreign investment company ("PFIC") rules were enacted in 1986 to limit the ability of U.S. taxpayers to defer U.S. taxes on investment income by investing in certain foreign companies that earn, but do not distribute, "passive income". One significant flaw with the PFIC legislation is that a corporate-level tax is effectively imposed on a regulated investment company ("RIC") that receives a so-called "excess distribution" from an investment in a PFIC or which disposes of stock in a PFIC which the RIC has held in more than one tax year. Because no mechanism currently exists in the PFIC provisions to eliminate this RIC-level tax (which cannot be credited against shareholders' tax liabilities), the Institute has been pursuing regulatory or legislative relief. (See Institute Memorandum to Tax Committee No. 23-90, dated August 22, 1990.) Request for Data The Institute will be meeting, along with other interested parties, with Treasury and Internal Revenue Service officials on September 17 to discuss the industry's problems with PFICs. The Treasury has requested information about the magnitude of the PFIC problem. In order to obtain the required information, a survey relating to PFICs is attached. To assist you in answering the survey, we have also attached the first update of the list of known or suspected PFICs which the Institute has compiled from members' responses to an earlier survey (See Institute Memorandum to Accounting/Treasurers Committee No. 18-90 and Tax Committee No. 14-90, dated June 22, 1990.) All responses to these surveys will be kept strictly confidential.

- 2 - As it is very important that the Institute have the information the government has requested, we have asked that responses to this survey be returned to the Institute by September 7, 1990. Please ensure that your fund complex responds to this survey at your earliest convenience. If you have any questions or comments regarding the survey or the issues to which it relates please contact me at (202) 955-3521. We appreciate your prompt attention to this survey. David J. Mangefrida, Jr. Assistant General Counsel Enclosures
DJM:bmb