

MEMO# 12633

September 15, 2000

INSTITUTE SUBMITS COMMENT LETTER SUPPORTING PROPOSED EXEMPTION FOR U.S. MUTUAL FUNDS FROM CANADIAN "FOREIGN INVESTMENT ENTITY" LEGISLATION

[12633] September 15, 2000 TO: INTERNATIONAL COMMITTEE No. 32-00 TAX COMMITTEE No. 40-00 RE: INSTITUTE SUBMITS COMMENT LETTER SUPPORTING PROPOSED EXEMPTION FOR U.S. MUTUAL FUNDS FROM CANADIAN "FOREIGN INVESTMENT ENTITY" LEGISLATION Under Canadian legislative proposals¹ governing investments in foreign investment entities ("FIEs"), a Canadian taxpayer who held an investment in a FIE generally would be taxed each year on the FIE's realized income, as well as the unrealized gains in the securities held by the FIE, pursuant to a "mark-to-market" regime.² Income recognition would thereby be accelerated to the taxpayer and any includible amounts would be fully taxable on an ordinary income basis. As originally released, the FIE proposals did not preserve the exemption that exists under the current foreign investment fund rules for U.S. mutual funds treated as regulated investment companies ("RICs"). We are pleased to inform you that the Canadian Department of Finance recently announced that the tax policy objectives of the FIE proposals – "that of annual recognition of the FIE's income or growth" – can be met without subjecting RICs to their provisions.³ The Institute submitted the attached letter to the Department of Finance expressing our support for the proposed RIC exemption. Deanna J. Flores Assistant Counsel Attachment Attachment (in .pdf format) 1 Legislative Proposals and Explanatory Notes on Taxation of Non-Resident Trusts and Foreign Investment Entities, released June 22, 2000 (the "FIE proposals"). 2 In lieu of the default "mark-to-market" regime, a Canadian taxpayer could elect, if certain conditions were met, to pay tax on its share of the underlying income of the foreign fund. As explained in the FIE proposals, it is expected that most taxpayers would not have sufficient information to comply with this alternative accrual regime. 3 Finance Canada News Release 2000-064 (September 7, 2000) (the "Release"). 2