

MEMO# 6358

November 4, 1994

IRS RULING ON FUND 12B-1 FEES

November 4, 1994 TO: BOARD OF GOVERNORS NO. 113-94 TAX MEMBERS NO. 45-94
ACCOUNTING/TREASURERS COMMITTEE NO. 55-94 RE: IRS RULING ON FUND 12b-1 FEES

_____ We are pleased to report that the Internal Revenue Service has issued the attached revenue ruling regarding the tax treatment of mutual fund 12b-1 fees. According to the ruling, fund 12b-1 fees, except those incurred during the initial stock offering period, are deductible as ordinary and necessary business expenses pursuant to Code section 162(a). Since fund 12b-1 fees are treated as deductible expenses pursuant to this ruling, the maximum amount that a fund may designate as a dividend must be reduced by the fund's 12b-1 fees. Thus, for example, if a tax-exempt fund were to designate as a tax-exempt dividend an amount in excess of its net tax-exempt income (after reduction for 12b-1 fees), shareholders could not treat that amount as tax-exempt income. The ruling will not be applied adversely with respect to 12b-1 fees allocable to periods before April 1, 1995. We will keep you informed of developments. Catherine L. Heron Vice President and Senior Counsel Attachment

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