

**MEMO# 919**

January 17, 1989

## **INDIANA INTANGIBLES TAX HELD UNCONSTITUTIONAL**

January 17, 1989 TO: TAX MEMBERS NO. 5-89 MONEY MARKET FUND CHIEF EXECUTIVE OFFICERS NO. 1-89 UNIT INVESTMENT TRUST MEMBERS NO. 6-89 RE: INDIANA INTANGIBLES TAX HELD UNCONSTITUTIONAL \_\_\_\_\_ In the attached opinion, an Indiana superior court recently ruled that Indiana's intangibles tax is unconstitutional. The court concluded that the tax violates the U.S. Constitution's Commerce Clause because the tax is assessed only on intangibles (such as stock) of entities (such as funds) organized outside Indiana and thus provides a commercial advantage to in-state companies. In addition, the court held that the tax violates the Indiana Constitution. Under the court's order, all persons who paid the intangibles tax since June 27, 1987 will be entitled to refunds of amounts paid, plus interest, less certain costs. We will keep you informed of developments. Keith D. Lawson Assistant General Counsel Attachment

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