

MEMO# 4145

October 8, 1992

CONGRESS APPROVES REVENUE ACT OF 1992

11/ A separate memorandum to Pension Members, Operations Members and the Transfer Agent Advisory Committee describes various pension-related provisions, including one that would permit certain taxpayers to make deductible IRA contributions. 22/ See Institute Memorandum to Board of Governors No. 43-92, Tax Members No. 42-92, Accounting/Treasurers Members No. 25-92, Closed-End Fund Members No. 31-92, Operations Members No. 23-92, Unit Investment Trust Members No. 41-92 and Transfer Agent Advisory Committee No. 32-92, dated July 2, 1992. 33/ See Institute Memorandum to Tax Members No. 59-92, Accounting/Treasurers Members No. 35-92, Closed-End Fund Members No. 36-92, Operations Members No. 32-92, Unit Investment Trust Members No. 49-92, International Members No. 20-92 and Transfer October 8, 1992 TO: TAX MEMBERS NO. 65-92 ACCOUNTING/TREASURERS MEMBERS NO. 37-92 CLOSED-END FUND MEMBERS NO. 37-92 OPERATIONS MEMBERS NO. 37-92 UNIT INVESTMENT TRUST MEMBERS NO. 50-92 INTERNATIONAL MEMBERS NO. 22-92 TRANSFER AGENT ADVISORY COMMITTEE NO. 58-92 RE: CONGRESS APPROVES REVENUE ACT OF 1992

The Senate today gave final approval to the Revenue Act of 1992, which was passed by the House of Representatives on October 6. If the President does not sign the bill within ten days after receiving it, it will not become law. This memorandum describes several non-pension-related provisions in the bill that would affect regulated investment companies ("RICs") and their shareholders. 1/1 Many of the provisions contained in this bill are identical to provisions contained in the bills previously passed by the House of Representatives in July 2/2 and by the Senate in September. 3/3 Agent Advisory Committee No. 52-92, dated September 30, 1992. - 1 - Anyone interested in obtaining a copy of relevant Conference Committee Report and statutory bill language may do so by calling the undersigned at (202) 955-3585. I. Mutual Fund Tax Simplification The bill would repeal the 30 percent test of Internal Revenue Code section 851(b)(3) for taxable years ending after the date of enactment. The bill also would require funds and brokers to provide shareholders and the Internal Revenue Service with average cost basis information for shares redeemed. The reporting would be done on an account-by-account basis and the taxpayer could elect whether or not to use the information for each account. The provision would apply to accounts opened on or after January 1, 1995 but would not apply to accounts in which shares were acquired other than through purchase. In addition, the bill would permit the tax-free conversion of bank common trust funds into RICs. The ability to convert tax-free from a RIC to a common trust fund would be limited to RICs the majority of whose shares were owned by accounts that qualify for participation in a bank common trust fund. While the provision permitting tax-free conversions of bank common trust funds into RICs would apply to all transfers occurring after the date of enactment, the provision permitting tax-free conversions of RICs

into bank common trust funds would apply only to transactions occurring after date of enactment and on or before September 30, 1993.

II. Foreign Investment Provisions The bill would allow individuals with no more than \$200 of creditable foreign taxes (\$400 in the case of a joint return) and no other foreign source income to elect a simplified method for claiming the foreign tax credit. The provision would apply to taxable years beginning after December 31, 1991. In addition, the bill would modify the passive foreign investment company ("PFIC") rules. Under the bill, all shares of passive foreign corporations ("PFCs") held by RICs would be marked to market each year at October 31 for excise tax purposes and at the RIC's fiscal year-end for income tax purposes, unless a "qualified electing fund" election had been made by the RIC to currently include in its income the PFC's income. Under a transition rule, a RIC would be required to (1) mark to market all PFC stock in its portfolio on the first day of the RIC's - 2 - first taxable year beginning after December 31, 1992, (2) pay a nondeductible interest charge on the tax that would have been collected had the PFC shares been marked to market in the prior years and (3) distribute the mark-to-market gains to its shareholders.

III. Amortization of Intangibles The bill would require that the purchase price of certain acquired intangible assets be amortized over a uniform 14-year - 3 - period. Among the intangible assets covered by the bill are goodwill, going concern value and various customer-based intangibles, such as investment advisory contracts. The provision would be generally effective for property acquired after the date of enactment, although a taxpayer could elect to have the bill apply to all property acquired after July 25, 1991.

IV. Taxpayer Bill of Rights Amendment The bill would require that information statements sent to payees include the name, address and phone number of the payor's information contact. The payor could provide the name and phone number of the department with the relevant information. The proposal would apply to statements required to be furnished after December 31, 1993.

V. Private Foundation Common Investment Funds The bill would provide, in new Code section 501(n), that an organization comprised solely of at least 20 tax-exempt private foundations generally would be treated as tax-exempt itself, so long as the organization were organized and operated solely to collectively invest in shares and securities on behalf of its members. The proposal would apply to taxable years ending on or after December 31, 1992.

VI. Educational Savings Bonds Provisions The bill would expand eligibility for the benefits of Code section 135, which provides that interest income earned on certain qualified U.S. Series EE savings bonds is excludable from gross income if the proceeds of the bond upon redemption do not exceed the qualified higher education expenses paid by the taxpayer during the taxable year. Under the bill, qualified higher education expenses would include certain amounts paid by the taxpayer to an "eligible educational institution", such as a college, for the tuition and fees of any individual and not simply dependents. Second, the bill would repeal the present law provision which phases out the section 135 exclusion for married taxpayers filing joint returns with adjusted gross income between \$60,000 and \$90,000 and for single taxpayers with adjusted gross income between \$40,000 and \$55,000. The provision would apply to U.S. Series EE savings bonds issued after December 31, 1989 and redeemed after December 31, 1992. * * * We will keep you informed of developments. Keith D. Lawson Associate Counsel - Tax - 4 -