

MEMO# 9332

October 10, 1997

MATERIALS FOR OCTOBER 15 TAX COMMITTEE MEETING

1 See Institute Memorandum to Tax Committee No. 31-97, dated September 26, 1997. [9332] VIA FAX October 10, 1997 TO: TAX COMMITTEE No. 37-97 RE: MATERIALS FOR OCTOBER 15 TAX COMMITTEE MEETING

Attached are two memoranda that will be discussed at the Tax Committee meeting on October 15, 1997. The first memorandum, titled "Post-October Losses After the Taxpayer Relief Act of 1997," also will be discussed on the afternoon of October 14 at the Committee's capital gains meeting.¹ The second memorandum, titled "Technical Correction To Foreign Income Tax Translation Rule," will be discussed only on the 15th. The "post-October loss" memorandum focuses primarily on an issue created by the Taxpayer Relief Act of 1997 for a fund that has a post-October loss in either its 28 percent rate basket or its 20 percent rate basket, but has neither a net capital loss nor a net long-term loss. The memorandum describes an approach being considered by IRS for modifying the post-October loss rules of Treas. Reg. section 1.852-11 to deal with this situation, discusses various alternative approaches to the issue and includes five examples. The "foreign income tax translation rule" memorandum discusses a technical problem -- for funds that "flow through" foreign taxes under section 853 -- that is created by a provision in the Taxpayer Relief Act of 1997 pursuant to which taxpayers "translate" their creditable foreign taxes into US dollars. The provision, which was designed to reduce computational difficulties for multinational corporations, inadvertently complicates foreign tax translations for portfolio investors by requiring that foreign withholding taxes be translated at the average exchange rate for a taxpayer's fiscal year. In addition, as discussed in the memorandum, funds with fiscal years ending on or after December 31 will not know this average exchange rate by the date they declare their year-end distributions (which are grossed up, pursuant to section 853, by the US dollar amount of any foreign taxes for which fund shareholders may claim foreign tax credits). Keith D. Lawson Associate Counsel - Tax Attachments (in .pdf format)