

MEMO# 9710

February 25, 1998

DRAFT MASSACHUSETTS GUIDANCE ON THE TAXATION OF OFFSHORE FUNDS WITH ACTIVITIES IN MASSACHUSETTS

1 See Institute Memorandum to Tax Members No. 27-97, Accounting/Treasurers Members No. 31-97, Operations Members No. 13-97, International Members No. 12-97, Closed-End Investment Company Members No. 23-97, Unit Investment Trust Members No. 28-97, and Transfer Agent Advisory Committee No. 36-97, dated August 1, 1997. [9710] VIA FAX February 25, 1998 TO: TAX COMMITTEE No. 6-98 MASSACHUSETTS MEMBERS RE: DRAFT MASSACHUSETTS GUIDANCE ON THE TAXATION OF OFFSHORE FUNDS WITH ACTIVITIES IN MASSACHUSETTS

As many of you are aware, the Taxpayer Relief Act of 1997 eliminated the rule that generally required offshore investment companies to maintain their principal office outside the US to avoid adverse federal income tax consequences.¹ In response to this change, the Massachusetts Department of Revenue is working on administrative guidance to explain the Massachusetts corporate excise treatment of offshore funds that conduct activities in Massachusetts. The Department of Revenue sent us the attached working draft of the offshore fund guidance to distribute to our members, and we understand that the Department of Revenue would like our comments on the draft. The draft provides that if an offshore fund's activities in Massachusetts expose it to Massachusetts tax jurisdiction, and it is classified as a "security corporation," then the fund will be liable for an annual excise tax of \$456. The draft also provides guidance on the activities that will expose an offshore fund to Massachusetts tax jurisdiction. The Department of Revenue plans to issue final guidance on this matter in the near future. Accordingly, please call me at (202) 326-5837 by Wednesday, March 4 with any comments you may have on the draft guidance. Anne M. Barr Associate Counsel Attachment