

MEMO# 11432

November 29, 1999

ICI LETTER TO SWITZERLAND REGARDING ELIGIBILITY OF U.S. FUNDS FOR TREATY BENEFITS

[11432] November 29, 1999 TO: BANK AND TRUST ADVISORY COMMITTEE No. 28-99
INTERNATIONAL COMMITTEE No. 50-99 TAX COMMITTEE No. 34-99 TRANSFER AGENT
ADVISORY COMMITTEE No. 75-99 SECURITIES OPERATIONS SUBCOMMITTEE RE: ICI LETTER
TO SWITZERLAND REGARDING ELIGIBILITY OF U.S. FUNDS FOR TREATY BENEFITS

_____ The Swiss
Federal Tax Administration (FTA) reportedly has stopped paying tax reclaims submitted by
and on behalf of U.S. funds. Apparently, the FTA is questioning whether U.S. funds are
entitled to benefits under the U.S.-Switzerland treaty that entered into force on December
19, 1997 (Treaty). The Institute has submitted the attached letter to the FTA as an initial
step toward addressing their concerns and hastening payment of the pending tax reclaims
for U.S. funds. As discussed in the letter, U.S. funds (treated as regulated investment
companies for federal tax purposes) are entitled to benefits under the Treaty because: !
U.S. funds are "residents" whose income is "liable to tax"; ! the shareholder base of U.S.
funds consists overwhelmingly of U.S. investors; and ! U.S. funds are not potential vehicles
for treaty-shopping abuses. The Institute also has requested the opportunity to provide the
FTA with a detailed memorandum elaborating more fully on the entitlement of U.S. funds to
benefits under the Treaty and, if necessary, to meet with them. Deanna J. Flores Assistant
Counsel Attachment

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