

MEMO# 3285

November 26, 1991

IRS ANNOUNCES DELAY IN COMMENCEMENT OF BACKUP WITHHOLDING WHEN 2 "B NOTICES" RECEIVED IN 3 YEARS

- 1 - November 26, 1991 TO: TAX MEMBERS NO. 54-91 OPERATIONS MEMBERS NO. 32-91
CLOSED-END FUND MEMBERS NO. 50-91 UNIT INVESTMENT TRUST MEMBERS NO. 58-91
TRANSFER AGENT ADVISORY COMMITTEE NO. 58-91 RE: IRS ANNOUNCES DELAY IN
COMMENCEMENT OF BACKUP WITHHOLDING WHEN 2 "B NOTICES" RECEIVED IN 3 YEARS

As we previously informed you, the Internal Revenue Service modified the existing "B Notice" procedures in September 1991 to require payors to impose backup withholding on any account for which the payor has received two notices within three calendar years that the payee's name and taxpayer identification number ("TIN") do not match (the "2/3 rule"), unless, in the case of an individual payee, the payor receives from the Social Security Administration ("SSA") verification of the payee's TIN on Form SSA-7028 within a specified time period. (See Institute Memorandum to Tax Members No. 40-91, Operations Members No. 23- 91, Closed-End Fund Members No. 41-91, Unit Investment Trust Members No. 43-91 and Transfer Agent Advisory Committee No. 44- 19, dated September 24, 1991.) Pursuant to the procedures announced for B Notices mailed this fall, backup withholding generally would have been imposed on any account subject to the 2/3 rule (i.e., where the appropriate TIN verification was not received) for all reportable payments made to the account on or after November 27, 1991. Unfortunately, many investment company investors (as well as other taxpayers) have experienced difficulties in getting TIN verifications from SSA on Form SSA-7028, as required by the September 1991 modifications to the B Notice program. Many local SSA offices have told taxpayers either that they do not have copies of Form SSA-7028 or that the form does not exist. Consequently, many investors have been sending to payors documents purporting to verify their TINs (such as SSA computer printouts of their records) that do not meet the recently- announced IRS requirements that the TIN be verified on a Form SSA-7028. Because of the gross unfairness of requiring payors to 1 */ This IRS Notice was also faxed today to Institute members. (See Institute Memorandum to Members - One Per Complex No. 62-91, Tax Committee No. 32-91, Operations Committee No. 37-91, Closed- End Fund Committee No. 31-91, Unit Investment Trust Committee No. 41-91 and Transfer Agent Advisory Committee No. 57-91, dated November 26, 1991.) - 2 - impose backup withholding on investors who have contacted SSA and attempted to have their TINs verified on Form SSA-7028, the Institute strongly urged IRS Commissioner Fred Goldberg to delay imposition of backup withholding pursuant to the 2/3 rule. (See Institute Memorandum to Tax Committee No. 35-91, Operations Committee No. 34-91, Closed-End

Fund Committee No. 30-91, Unit Investment Trust Committee No. 38-91 and Transfer Agent Advisory Committee No. 52-91, dated November 13, 1991.) Today, the IRS issued Notice 91-40, attached, */1 which announces that a payor may, but is not required to, delay commencing backup withholding under the 2/3 rule until January 1, 1992. In addition, a payor is permitted not to begin backup withholding under the 2/3 rule (or to stop backup withholding once it has begun) "following receipt from the SSA or the IRS of any document validating the payee's TIN after September 15, 1991, and before September 1, 1992." We will keep you informed of developments. Keith D. Lawson Associate Counsel - Tax
Attachment KDL:bmb

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