

MEMO# 1985

June 22, 1990

PASSIVE FOREIGN INVESTMENT COMPANY (PFIC) SURVEY

June 22, 1990 TO: ACCOUNTING/TREASURERS COMMITTEE NO. 18-90 TAX COMMITTEE NO. 14-90 RE: PASSIVE FOREIGN INVESTMENT COMPANY (PFIC) SURVEY

At a June 7, 1990 meeting on international tax issues, members expressed a desire that the Institute compile a list of known and suspected passive foreign investment companies ("PFICs"). As the Institute has no capacity to determine whether identified PFICs are, in fact, PFICs, we will merely collect the information from members, update it periodically and distribute it. Background: A PFIC is defined generally in Internal Revenue Code section 1296(a) as any foreign corporation if: 1) 75 percent or more of its gross income for the taxable year is "passive income", or 2) the average percentage of assets (by value) held by such corporation during the taxable year which generate "passive income" is at least 50 percent. The typical effect of holding PFIC stock in a RIC's portfolio is that a RIC-level tax (that cannot be avoided by paying out the income as a dividend to the RIC's shareholders) is incurred when the PFIC makes certain distributions and when the PFIC stock is sold. The Institute and others are currently discussing with the Treasury Department and the Internal Revenue Service possible mechanisms to avoid causing RICs that invest in PFICs from incurring a RIC-level tax on these investments. The Survey: The following questionnaire will help the Institute prepare the list of PFICs. To ensure maximum participation, the Institute will not identify the member who identified each PFIC. Attempts will be made, however, to clarify an investment's status where differences of opinion arise. In addition, the Institute is requesting information regarding elections to classify PFICs as "qualified electing funds" ("QEFs"). The questions are in response to an Internal Revenue Service request for information regarding the usefulness of QEF elections to investment companies. Please return the survey to me by July 16, 1990 so that the information can be distributed to members promptly. If you have any questions regarding PFICs or this survey, please call me at (202) 955-3521. David J. Mangefrida, Jr. Assistant General Counsel Attachment