

MEMO# 1552

November 21, 1989

INSTITUTE COMMENTS ON SECTION 988 REGULATIONS

November 21, 1989 TO: TAX COMMITTEE NO. 19-89 CLOSED-END FUND COMMITTEE NO. 51-89 INTERNATIONAL FUNDS TASK FORCE NO. 19-89 ACCOUNTING/TREASURERS COMMITTEE NO. 50-89 RE: INSTITUTE COMMENTS ON SECTION 988 REGULATIONS

As we previously informed you, the Internal Revenue Service recently issued temporary and proposed regulations providing guidance under Code section 988 on the taxation of gain or loss from certain foreign currency transactions denominated in a nonfunctional currency. (See Institute Memorandum to Tax Members No. 39-89, Closed-End Fund Members No. 53-89, International Funds Task Force No. 17-89 and Accounting/Treasurers Committee No. 45-89, dated October 10, 1989.) A subcommittee of the Tax Committee was then formed to develop the Institute's comments on these regulations. The attached Institute comment letter to IRS addresses three issues. First, the Institute proposes that the spot rate convention in the regulations for "goods" be clarified so that it is clearly applicable to unhedged payables and receivables arising from the purchase and sale of foreign-currency-denominated stock and securities by a regulated investment company ("RIC"). Second, the Institute suggests that the hedging rules under these regulations be expanded to encompass hedges of payables and receivables arising from the purchase and sale of such stock and securities. Finally, the Institute urges that RICs that may have treated the acquisition of a foreign-currency-denominated certificate of deposit as a recognition event be permitted to continue that practice, or at a minimum that the nonrecognition treatment set forth in the regulations not be applied retroactively. We will keep you informed of developments. Keith D. Lawson Assistant General Counsel Attachment

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