

**MEMO# 6798**

March 29, 1995

## **GEORGIA INTANGIBLES TAX**

March 29, 1995 TO: ACCOUNTING/TREASURERS MEMBERS No. 18-95 CLOSED-END FUND COMMITTEE No. 12-95 TAX MEMBERS No. 19-95 UNIT INVESTMENT TRUST MEMBERS No. 13-95 RE: GEORGIA INTANGIBLES TAX

\_\_\_\_\_ As you may know, last fall the Institute filed suit against the State of Georgia, challenging the application of that state's intangibles tax to shares of mutual funds that invest in U.S. Government Securities. The Georgia Department of Revenue has now conceded that the intangibles tax does not apply to shares of a mutual fund or a unit investment trust to the extent the value of the shares reflects the value of U.S. Government Securities held by the fund, if the fund or trust is organized as business a trust. Attached is a letter from the Department of Revenue to a fund complex seeking information to assist it in implementing the pro rata exemption. The Department of Revenue has not issued any guidance indicating whether their change of position has retroactive effect. The Institute's counsel in Georgia indicated that Georgia taxpayers interested in seeking refunds of intangibles tax paid in prior years should submit a refund claim to the Georgia Department of Revenue. There is no specific form for requesting a refund. Instead, a refund claim should be in the form of a letter to the Department that includes legal and factual arguments supporting the claim. The taxpayer will need to provide evidence showing the percentage of the fund or trust's assets that was comprised of U.S. Government obligations. The claim for a refund should be mailed to: Ms. Shirley Gamble Georgia Department of Revenue P.O. Box 740386 Atlanta, GA 30374 The Institute is continuing to pursue litigation against Georgia challenging the application of the intangibles tax to the portion of a fund's value attributable to U.S. Government obligations when the fund is organized as a corporation. We will keep you informed of developments. Peter J. Cinquegrani Assistant Counsel - Tax Attachment