

MEMO# 15256

October 10, 2002

DRAFT SUBMISSION FOR YOUR REVIEW REGARDING SECTION 368 CONTINUITY OF BUSINESS ENTERPRISE GUIDANCE FOR RIC MERGERS

[15256] October 10, 2002 TO: TAX COMMITTEE No. 32-02 RE: DRAFT SUBMISSION FOR YOUR REVIEW REGARDING SECTION 368 CONTINUITY OF BUSINESS ENTERPRISE GUIDANCE FOR RIC MERGERS Attached is a draft submission to the Internal Revenue Service requesting the issuance of published guidance clarifying the application to RICs of the “historic business” test for determining business continuity¹ under the tax-free reorganization rules of section 368(a)(1) of the Internal Revenue Code. Specifically, the submission requests guidance clarifying that the merger of any two RICs satisfies the continuity of business enterprise test. In the alternative, the submission requests guidance clarifying that a merger between two RICs satisfies the business continuity test for tax-free reorganizations so long as each realizes and distributes to shareholders income that is predominantly of the same (taxable or tax-exempt) character. ACTION REQUESTED Please provide your comments on the draft submission to the undersigned (cbarre@ici.org or (202) 326-5821) or Keith Lawson (lawson@ici.org or (202) 326-5832) by Monday, October 21, 2002. Catherine Barré Assistant Counsel Attachment (in .pdf format) 1 Treas. Reg. 1.368-1(d).