

MEMO# 16205

June 13, 2003

INSTITUTE COMMENTS ON NEW JERSEY PROPOSED REGULATIONS

[16205] June 13, 2003 TO: TAX MEMBERS No. 34-03 ADVISER DISTRIBUTOR TAX ISSUES TASK FORCE No. 8-03 RE: INSTITUTE COMMENTS ON NEW JERSEY PROPOSED REGULATIONS

The Institute has provided the attached comments to the New Jersey Division of Taxation regarding regulations proposed by the Division¹ to implement legislation that would extend New Jersey's taxing jurisdiction and change the method for apportioning income to New Jersey. The proposed regulations, among other things, would impose tax on a company that provides asset management services from outside of New Jersey to an investment company using a formula based in part on the portion of the investment company's shareholders who are located inside New Jersey. Several examples of how this New Jersey apportionment rule would apply are included in the letter. The Institute's comment letter asserts that the subjectivity and apportionment provisions of the proposed regulations -- as applied to an entity that provides asset management services from a location outside New Jersey to an investment company -- exceed the state's authority to tax under the commerce and due process clauses of the United States Constitution. Catherine Barré Assistant Counsel Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 16205, or call the ICI Library at (202) 326-8304 and request the attachment for memo 16205. Attachment (in .pdf format) 1 See, Institute Memorandum to Tax Members No. 13-03 (Memo No. 15696), dated February 26, 2003.

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