

MEMO# 2008

July 6, 1990

IRS WAIVES PENALTIES FOR 1989 INFORMATION RETURNS CORRECTED BY OCTOBER 1, 1990

July 6, 1990 TO: TAX MEMBERS NO. 21-90 CLOSED-END FUND MEMBERS NO. 25-90 UNIT INVESTMENT TRUST MEMBERS NO. 46-90 OPERATIONS MEMBERS NO. 17-90 TRANSFER AGENT ADVISORY COMMITTEE NO. 19-90 ACCOUNTING/TREASURERS MEMBERS NO. 14-90 RE: IRS WAIVES PENALTIES FOR 1989 INFORMATION RETURNS CORRECTED BY OCTOBER 1, 1990

As we previously informed you, the Omnibus Budget Reconciliation Act of 1989 ("OBRA 1989") substantially modified the information reporting penalty system and provided separate \$50 penalties for failure to file correct information returns with the IRS (Code section 6721), for failure to furnish correct statements to payees (Code section 6722), and for failure to comply with other information reporting requirements, such as using a correct taxpayer identification number ("TIN") on an information return or statement (Code section 6723). (See Institute Memorandum to Closed-End Fund Members No. 68-89, Tax Members No. 48-89, Unit Investment Trust Members No. 70-89, Operations Committee No. 27-89, Accounting/Treasurers Committee No. 55-89 and Transfer Agent Advisory Committee No. 31-89, dated December 19, 1989). The new section 6721 penalties are time- sensitive in that the \$50 penalty for failure to file correct information returns is reduced to \$15 if the failure is corrected on or before the day 30 days after the required filing date and to \$30 if the failure is corrected more than 30 days after the required filing date but on or before August 1. The attached IRS Notice announces that, notwithstanding the changes made by OBRA 1989, the IRS will waive penalties for failure to include correct information on previously filed 1989 information returns if the information returns are corrected by October 1, 1990. This penalty waiver is being granted because the instructions for information returns due in 1990 were printed prior to enactment of OBRA 1989 and advise taxpayers to correct errors by October 1. However, the IRS is not automatically waiving, on grounds of correction, penalties for failure to file information returns by the required filing date. Penalties for failure to file are waived only upon a showing that the failure was due to reasonable cause and not to willful neglect. We will keep you informed of developments.

Keith D. Lawson Associate General Counsel Attachment KDL:bmb