

MEMO# 11164

August 5, 1999

SUBMISSIONS TO SEC STAFF ON AFTER-TAX RETURN CALCULATIONS

1 See Institute Memorandum to SEC Rules Committee No. 23-99 and Tax Committee No. 6-99 (among others), dated March 31, 1999. [11164] August 5, 1999 TO: SEC RULES COMMITTEE No. 59-99 TAX COMMITTEE No. 19-99 RE: SUBMISSIONS TO SEC STAFF ON AFTER-TAX RETURN CALCULATIONS

As we previously informed you,¹ the “Mutual Fund Tax Awareness Act of 1999” (H.R. 1089) was introduced in March 1999 by Representative Paul Gillmor (R-OH) and ten cosponsors. This legislation would direct the Securities and Exchange Commission to adopt a rule under the Investment Company Act of 1940 within one year to require improved disclosure in investment company prospectuses and annual reports of the after-tax effects of portfolio turnover on returns to investors. Recently, the SEC staff requested two fund companies who have reported tax-adjusted total returns to provide the staff with a description of a method of calculating an after-tax (pre-liquidation) return and an after-tax (post-liquidation) return. These companies provided the Institute with draft copies of their submissions, which they reviewed with the Institute and a task force of its members. Attached are the submissions filed by the Institute and the two contacted members in response to the SEC’s request for technical assistance. The Institute’s letter states that, while the descriptions reflect a reasonable approach for calculating after-tax total returns, many issues will need to be addressed before a rule in this area could be adopted, or even proposed. The issues identified in the Institute letter are: the appropriate federal income tax rate(s); the use of historic or current tax rates for prior periods; adjustments for certain types of taxes and credits; the appropriate method for reflecting the tax liability; the appropriate measurement period(s); where after-tax returns should be disclosed (prospectus or shareholder reports); whether disclosure of after-tax returns should be mandatory (and, if so, for which funds); appropriate narrative disclosure to accompany after-tax returns; alternative methods of comparing funds’ taxable distributions; and whether comparable rules should be applied to competing investment and savings products. Keith D. Lawson
Amy B.R. Lancellotta Senior Counsel Senior Counsel Attachments