INSTITUTE COMMENTS ON PROPOSED AMENDMENTS TO SECTION 382 REGULATIONS' "SEGREGATION RULE"

1 */ This limitation applies if the precentage of stock owned by "5-percent shareholders" increases by more than 50 percentage points over the lowest percentage of stock of such corporation owned by such shareholders at any time during the prior three- year period. December 24, 1991 TO: TAX COMMITTEE NO. 39-91 ACCOUNTING/TREASURERS COMMITTEE NO. 27-91 RE: INSTITUTE COMMENTS ON PROPOSED AMENDMENTS TO SECTION 382 REGULATIONS' "SEGREGATION RULE"

_____ As we previously informed you, earlier this year the Internal Revenue Service addressed a concern raised by the Institute when it issued proposed regulations to clarify that the so-called "segregation rules" included in regulations previously issued under Code sections 382 and 383 would not apply to the issuance or redemption of mutual fund shares in the ordinary course of business. (See Institute Memorandum to Tax Members No. 46-91 and Accounting/Treasurers Members No. 30-91, dated November 4, 1991.) The Institute's concern was that the segregation rules could be applied to treat all shares issued by a fund on any day as being owned by a separate "5-percent shareholder" for purposes of determining whether an "ownership change" has occurred that could limit a fund's ability to utilize capital loss carryforwards and net unrealized built-in losses. */1 (See Institute Memorandum to Tax Members No. 44-89 and Accounting/Treasurers Committee No. 49-89, dated November 21, 1989.) In the attached letter, the Institute expresses its strong support for the proposed amendments to the existing regulations and urges their prompt adoption. We will keep you informed of developments. Keith D. Lawson Associate Counsel - Tax - 1 - Attachment