

MEMO# 3812

May 28, 1992

LETTER TO STATE OF GEORGIA ON IMPOSITION OF INTANGIBLES TAX ON UNIT INVESTMENT TRUSTS WHICH HOLD FEDERAL OBLIGATIONS

May 28, 1992 TO: TAX COMMITTEE NO. 19-92 UNIT INVESTMENT TRUST COMMITTEE NO. 29-92 RE: LETTER TO STATE OF GEORGIA ON IMPOSITION OF INTANGIBLES TAX ON UNIT INVESTMENT TRUSTS WHICH HOLD FEDERAL OBLIGATIONS

As you know, Georgia imposes an intangibles tax on securities. Although a state may legally tax its obligations if it so chooses, federal law prohibits a state from directly or indirectly taxing federal obligations. Under Georgia law, obligations of the United States and of Georgia and its political subdivisions are exempt from the intangibles tax. The Georgia Department of Revenue, however, imposes the tax on interests in unit investment trusts ("UITs") which hold solely Georgia and/or United States obligations. Earlier this year, at the Unit Investment Trust Committee's request, the Institute urged the Commissioner of Revenue to exempt from the intangibles tax interests in UITs which are invested solely in obligations of Georgia and its political subdivisions. (See Institute Memorandum to Tax Committee No. 1- 92 and Unit Investment Trust Committee No. 1-92, dated January 2, 1992.) Georgia subsequently refused to alter its interpretation of the intangibles tax. In the attached letter, the Institute requests that the Georgia Attorney General and the Commissioner of Revenue cease applying the intangibles tax to UITs which hold federal obligations. As the letter indicates, the U.S. Supreme Court decision in *American Bank & Trust Co. v. Dallas County* specifically rejected the theory by which Georgia justifies the imposition of tax on a UIT which holds federal obligations. We will keep you informed of further developments. David J. Mangefrida Jr. Assistant Counsel - Tax Attachment