

MEMO# 4793

May 13, 1993

SUPREME COURT RULES THAT CUSTOMER-BASED INTANGIBLES MAY BE AMORTIZED

May 13, 1993 TO: TAX COMMITTEE NO. 25-93 RE: SUPREME COURT RULES THAT
CUSTOMER-BASED INTANGIBLES MAY BE AMORTIZED

The Supreme Court recently ruled in *Newark Morning Ledger Co. v. United States* that acquired customer-based intangibles (subscription lists) which have an ascertainable value and useful life can be separated from goodwill and amortized for tax purposes. Under the general rule, goodwill is nonamortizable, but intangible assets with an ascertainable life may be amortized. The taxpayer had taken the position that the reason that goodwill is nonamortizable is that it has no ascertainable useful life, and that a customer-based intangible with an ascertainable useful life is by definition not goodwill and, therefore, can be amortized. The Internal Revenue Service had asserted that goodwill, and other assets indistinguishable from goodwill, such as customer-based intangibles, are nonamortizable regardless of whether they have an ascertainable useful life. The Court held that the taxpayer's theory was correct. Thus, presumably, if a customer-based intangible, such as a management contract of a mutual fund management company, is acquired, and the contract can be valued and its useful life determined, the value of that contract could be amortized over its useful life. We will keep you informed of further developments. David J. Mangefrida Jr. Assistant Counsel - Tax Attachment

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