

**MEMO# 15037**

August 13, 2002

## **DRAFT LETTER FOR YOUR REVIEW REGARDING EFFECTIVE DATE OF MASSACHUSETTS CAPITAL GAIN RATE CHANGE**

[15037] August 13, 2002 TO: TAX COMMITTEE No. 26-02 RE: DRAFT LETTER FOR YOUR REVIEW REGARDING EFFECTIVE DATE OF MASSACHUSETTS CAPITAL GAIN RATE CHANGE As we previously informed you,<sup>1</sup> Massachusetts recently modified the tax rate structure for Massachusetts capital gains.<sup>2</sup> Under prior law, assets held for more than one year were taxed according to a graduated rate structure ranging from 5 percent to zero depending on the number of years the capital asset was held. The new law removes this multiple rate structure and taxes all long-term gains at single rate, 5.3%. With respect to an effective date, the new Massachusetts law provides that the new capital gain rate structure: shall be effective for the portion that begins on May 1, 2002 of any taxable year beginning on or after January 1, 2002 and before May 2, 2002. It is intended, to the maximum extent possible, that all transactions which are completed prior to May 1, 2002 shall be aggregated and taxed under the procedures and rates in place prior to the changes in law . . . and that all transactions completed on or after May 1, 2002, . . . shall be aggregated and taxed under the procedures and rates established by such changes in law.<sup>3</sup> We have prepared for your review the attached draft letter to the Massachusetts Department of Revenue regarding the application of the effective date provision with respect to capital gains realized by mutual funds and distributed to their shareholders. The attached draft requests clarification that the new capital gains rate structure will be applied based upon the date that a gain is realized by the fund rather than the date that the gain is distributed to the fund's shareholders. <sup>1</sup>See, Institute Memorandum to Tax Members No. 35-02 (July 31, 2002) and Institute Memorandum to Tax Committee No. 24-02 (Aug. 6, 2002). <sup>2</sup> House No. 5250. <sup>3</sup> Id. at 32. **2 ACTION REQUESTED** We request that you provide your comments and suggestions regarding the letter to the undersigned (cbarre@ici.org or 202/326-5821) by August 15, 2002. Catherine Barré Assistant Counsel Attachment (in .pdf format)