

**MEMO# 2942**

July 17, 1991

## **U.S. SUPREME COURT DECLINES TO REVIEW CONNECTICUT SALES TAX CASE HOLDING THAT STATE LACKED JURISDICTION OVER MAIL ORDER SALES**

July 17, 1991 TO: TAX COMMITTEE NO. 23-91 CLOSED-END FUND COMMITTEE NO. 20-91  
UNIT INVESTMENT TRUST COMMITTEE NO. 28-91 MONEY MARKET MEMBERS - ONE PER  
COMPLEX NO. 20-91 RE: U.S. SUPREME COURT DECLINES TO REVIEW CONNECTICUT SALES  
TAX CASE HOLDING THAT STATE LACKED JURISDICTION OVER MAIL ORDER SALES

One continuing area of interest for the investment company industry is the effort by states to assert jurisdiction over funds for various tax purposes, such as to require funds to provide particular tax information to resident shareholders and/or the state. Many of the issues raised in this effort also arise when states attempt to force out-of-state vendors to collect sales or use taxes on mail order sales. In a decision which may have implications for state efforts to assert jurisdiction over funds, the U.S. Supreme Court has declined to review a Connecticut Supreme Court decision which held that Connecticut did not have jurisdiction to require an out-of-state vendor to collect sales or use taxes on mail order sales. SFA Folio Collections, Inc., U.S. Supreme Court, Docket No. 90-1627, petition for certiorari denied June 17, 1991. That vendor delivered merchandise to customers in Connecticut by mail or common carrier and had no retail stores or other physical presence in the state. Orders were obtained by telephone or mail in New York, and the taxpayer retained no security interest in the goods sold. The taxpayer mailed catalogues to Connecticut residents and placed ads in magazines delivered to Connecticut residents. The state court had determined that the taxpayer did not have sufficient contacts, or "nexus", with Connecticut to be subject to the state's jurisdiction, despite the nexus to the state of the taxpayer's parent corporation. The state court had concluded that no liability could be imposed on the taxpayer under any "economic enterprise" theory. We will keep you informed of further developments. David J. Mangefrida, Jr. Assistant Counsel - Tax