

MEMO# 1135

May 2, 1989

NEW YORK ADVISORY OPINION ON PASS-THROUGH OF FEDERAL AGENCY OBLIGATION INTEREST

May 2, 1989 TO: TAX MEMBERS NO. 15-89 MONEY MARKET FUND CHIEF EXECUTIVE OFFICERS NO. 3-89 RE: NEW YORK ADVISORY OPINION ON PASS-THROUGH OF FEDERAL AGENCY OBLIGATION INTEREST

The attached advisory opinion was recently issued by the New York State Commissioner of Taxation and Finance regarding whether the term "obligations of the United States", as used in the New York State pass-through statute, includes the obligations of federal agencies. The issue arises because section 612(c)(1) of the New York Tax Law exempts from tax the "obligations of the United States and its possessions" and specifically provides for pass-through treatment whereas section 612(c)(2) of the New York Tax Law exempts obligations of agencies and instrumentalities of the United States but does not contain a comparable pass-through provision. The advisory opinion provides that, in determining what is meant by "obligations of the United States and its possessions," taxpayers may look to the State's Technical Service Bureau Memorandum TSB-M-86-(8)I (also attached) which provides a list of obligations issued by the United States government, states and municipalities and indicates whether the interest on each obligation is subject to New York State income tax. Various agency obligations are included on the list. Pursuant to New York law, "[a]n advisory opinion ... shall be binding on the Commissioner only with respect to the person to whom the advisory opinion is rendered." We will keep you informed of developments. Keith D. Lawson Assistant General Counsel Attachments