

MEMO# 10935

April 27, 1999

INSTITUTE REQUESTS THAT EFFECTIVE DATE FOR NONRESIDENT ALIEN WITHHOLDING REGULATIONS BE DELAYED UNTIL 2001

1 See, e.g., Institute Memorandum to Tax Committee No. 3-99, Operations Committee No. 4-99, Transfer Agent Advisory Committee No. 12-99 and Bank and Trust Advisory Committee No. 3-99, dated February 3, 1999. 2 See, e.g., Institute Memorandum to Operations Members No. 35-98, Tax Members No. 42-98 and Transfer Agent Advisory Committee No. 82-98, dated December 3, 1998. [10935] April 27, 1999 TO: BANK AND TRUST ADVISORY COMMITTEE No. 9-99 OPERATIONS COMMITTEE No. 17-99 TAX COMMITTEE No. 9-99 TRANSFER AGENT ADVISORY COMMITTEE No. 28-99 RE: INSTITUTE REQUESTS THAT EFFECTIVE DATE FOR NONRESIDENT ALIEN WITHHOLDING REGULATIONS BE DELAYED UNTIL 2001

As you know, the final withholding tax regulations issued by the Internal Revenue Service ("IRS") presently are scheduled to apply to certain amounts that are paid by US persons after December 31, 1999 to persons who are neither citizens nor residents of the United States ("nonresident aliens").¹ In the eighteen months since the regulations were finalized, the IRS has been issuing guidance needed to implement effectively the new rules and revising certification forms (such as the new Form W-8BEN used to certify foreign status, establish beneficial ownership and claim tax treaty benefits).² Recently, significant concerns have arisen in the payor community that neither the IRS, the U.S. payor community nor foreign financial institutions will have all of the necessary procedures in place when the new withholding regulations are scheduled to become effective. These concerns arise from numerous factors, including delays in the issuance of some IRS guidance, objections raised by foreign financial institutions to various aspects of the new qualified intermediary regime and the difficulty of attempting to program for, and then implement, these new rules on Monday, January 3, 2000. Consequently, the Institute and five other financial services industry organizations have sent to the Treasury Department and the IRS the attached letter requesting that implementation of the final nonresident alien withholding regulations be delayed until January 1, 2001. This delay would best serve the common interest of the financial services community and the IRS in effective implementation of the new withholding tax regime. Keith D. Lawson Senior Counsel Attachment

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.