

MEMO# 12273

July 18, 2000

IRS REQUESTS COMMENTS ON REVISED FORM 1042-S FOR YEAR 2001 INFORMATION REPORTING

[12273] July 18, 2000 TO: TAX COMMITTEE No. 30-00 TRANSFER AGENT ADVISORY COMMITTEE No. 32-00 RE: IRS REQUESTS COMMENTS ON REVISED FORM 1042-S FOR YEAR 2001 INFORMATION REPORTING The Internal Revenue Service has released a revised draft of Form 1042-S to be used by US withholding agents, including regulated investment companies ("RICs"), to report payments of certain US source income ("reportable payments") made to foreign persons during 2001 and any US tax withheld from such reportable payments. As summarized below, the draft Form 1042-S includes significant changes that reflect the new nonresident alien withholding regulations which will become effective as of January 1, 2001.¹ In particular, the draft Form 1042-S requires a US withholding agent to (1) separately identify a "non-qualified" intermediary or flow-through entity through which payments are made to a recipient (boxes 17 - 20); (2) report withheld amounts that were reimbursed to a recipient under the procedure described in Treas. Reg. 1.1461-2(a)(2)(i)(box 8); (3) report a recipient's "qualified intermediary" employer identification number ("QI-EIN"), if any (box 14); and (4) report whether a "non-qualified" intermediary using the "pooled" reporting procedure of Treas. Reg. 1.1441-1(e)(3)(iv)(D) failed to provide the required year-end payment allocation information ("pro rata basis reporting" box).² In addition, the draft Form 1042-S includes only one income line (unlike the three income lines on the Form 1042-S for 2000).³ Finally, the draft Form 1042-S adds new income, exemption and recipient codes. Action Requested: 1 See Institute Memorandum to Bank and Trust Advisory Committee No. 13-00; Broker/Dealer Advisory Committee No. 11-00; International Committee No. 16-00; Operations Committee No. 12-00, Tax Committee No. 24-00; Transfer Agent Advisory Committee No. 24-00, dated May 24, 2000. 2 Announcement 2000-54, 26 I.R.B. 1276, provides that where the "pro rata basis reporting" box is checked, a withholding agent will be instructed to complete box 5 (tax rate) by including the appropriate rate of withholding in the box, not the rate of withholding actually applied. 3 As explained in Announcement 2000-54, a withholding agent may be permitted to use substitute payee copies of Form 1042-S (i.e., copies B, C and D) that contain more than one income line. Under no circumstances, however, will the copy of the Form 1042-S that is filed with the Internal Revenue Service (i.e., copy A) be permitted to contain more than one income line (i.e., boxes 1 through 8). 2The Internal Revenue Service has requested written comments on the 2001 draft Form 1042-S by Wednesday, July 26, 2000. Please (1) retrieve the 2001 draft Form 1042-S from the internet at "<http://ftp.fedworld.gov/pub/irs-dft/d1042s01.pdf>" and (2) inform the undersigned by Monday, July 24 of any comments that you would like the Institute to submit. If you have any difficulty retrieving the 2001 draft form 1042-S, please provide your fax number to the

Institutes's Ezella Wynn by e-mail (ewynn@ici.org) or by telephone (202-218-3560) so that we can fax a copy to you. Deanna J. Flores Assistant Counsel

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