

MEMO# 10948

May 18, 1999

IRS DELAYS EFFECTIVE DATE FOR NONRESIDENT ALIEN WITHHOLDING REGULATIONS UNTIL 2001

1 See, e.g., Institute Memorandum to Bank and Trust Advisory Committee No. 9-99, Operations Committee No. 17-99, Tax Committee No. 9-99 and Transfer Agent Advisory Committee No. 28-99, dated April 27, 1999. 2 See Institute Memorandum to Tax Committee No. 7-99, Operations Committee No. 11-99, Transfer Agent Advisory Committee No. 25-99 and Bank and Trust Advisory Committee No. 7-99, dated April 8, 1999. [10948] May 18, 1999 TO: BANK AND TRUST ADVISORY COMMITTEE No. 10-99 OPERATIONS MEMBERS No. 11-99 TAX MEMBERS No. 14-99 TRANSFER AGENT ADVISORY COMMITTEE No. 29-99 RE: IRS DELAYS EFFECTIVE DATE FOR NONRESIDENT ALIEN WITHHOLDING REGULATIONS UNTIL 2001 _____ As

requested by the Institute and other financial service industry organizations,¹ the Treasury Department and the Internal Revenue Service ("IRS") have announced that the effective date of the final withholding tax regulations will be delayed until January 1, 2001. Specifically, the final withholding tax regulations will apply to certain amounts that are paid by US persons after December 31, 2000 to persons who are neither citizens nor residents of the United States ("nonresident aliens"). As explained in the attached IRS Notice 99-25, the Treasury Department and IRS concluded that it is in the "best interest of tax administration" to delay the implementation of the final withholding regulations and thereby permit taxpayers to make the computer system modifications necessary to comply with the new withholding regulations without the "impediments" caused by year 2000 concerns. In addition, the Treasury Department and IRS noted that concerns have been raised about certain aspects of the new qualified intermediary regime, including the lack of finalized qualified intermediary agreements. Note, however, that the deadline for obtaining new withholding certificates (e.g., Form W-8BEN, Form W-8ECI) from nonresident alien investors is not delayed further by the Notice. As under existing transition rules, use of new withholding certificates is mandatory for payments made after December 31, 2000. New withholding certificates will be treated as satisfying the documentation requirements of the current withholding rules (which are effective prior to January 1, 2001). Finally, due to the delay in the effective date of the final withholding tax regulations, the changes previously proposed to apply to Forms 1042-S filed with respect to reportable payments made during calendar year 2000,² now are proposed to apply to Forms 1042-S filed with respect to reportable payments made during calendar year 2001. Deanna J. Flores Assistant Counsel Attachment

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