

MEMO# 19903

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Institute Comment Letter on California Apportionment Rules

©2006 Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice. [19903] March 30, 2006 TO: ADVISER DISTRIBUTOR TAX ISSUES TASK FORCE No. 2-06 TAX COMMITTEE No. 9-06 RE: INSTITUTE COMMENT LETTER ON CALIFORNIA APPORTIONMENT RULES Attached is the Institute comment letter regarding California's draft regulation on apportionment for mutual fund service providers ("MFSPs"). Please provide suggested changes or comments on this draft to Lisa Robinson (202-326-5835 or lrobinson@ici.org) by Monday, April 3, 2006 at 5:00 p.m. Eastern time. The Institute letter recommends a number of changes to the regulation. First, the letter reiterates the Institute's general position that throw-out and throw-back rules should not be included in the final regulation. The letter specifically requests elimination of a throw-back rule included in the draft regulation that would prohibit an MFSP from assigning receipts to a state where the MFSP is not taxable. Alternatively, the letter recommends that the regulation include states where an MFSP is subject to tax and states that impose taxes other than income taxes for purposes of determining whether an MFSP is taxable in a state. Second, the letter requests that the regulation's rules for obtaining information about shareholder domicile and assignment of shares in omnibus accounts and asset pools such as retirement accounts be made more flexible and administrable. Third, the letter requests that the regulation be amended to permit an MFSP to use the MFSP's taxable year in computing the shareholder ratio for all of its regulated investment companies. Finally, the letter requests that the regulation provide an effective date that allows sufficient time for MFSPs to modify or develop systems to comply with the new rules and to prepare their California tax returns. Lisa Robinson Associate Counsel Attachment (in .pdf format)