

**MEMO# 17543**

May 17, 2004

# **DRAFT SUBMISSION TO TREASURY REGARDING SAFE HARBOR PROCEDURES FOR IDENTIFYING QUALIFIED FOREIGN CORPORATIONS**

1 See Institute Memorandum to Tax Members No. 65-03 [16824], dated November 28, 2003. 2 See Institute Memoranda to Tax Members No. 36-03 [16341], dated July 22, 2003, and No. 40-03 [16404], dated August 1, 2003. 3 See Institute Memorandum to Tax Committee No. 14-04 [17414], dated April 23, 2004. [17543] May 17, 2004 TO: TAX COMMITTEE No. 17-04 RE: DRAFT SUBMISSION TO TREASURY REGARDING SAFE HARBOR PROCEDURES FOR IDENTIFYING QUALIFIED FOREIGN CORPORATIONS In Notice 2003-79, Treasury established a safe harbor for persons required, as payors, to file information returns in 2003 with respect to qualified dividend income from foreign corporations.<sup>1</sup> Notice 2003-79 also announced Treasury's intention to adopt a certification-based safe harbor for reporting in 2004 and later years. The Institute met with Treasury officials both before the issuance of Notice 2003-79 and more recently in an effort to explain the need for safe harbors for payors reporting foreign qualified dividends and also the reasons why we believe a certification-based safe harbor is unlikely to be of significant benefit.<sup>2</sup> Although Treasury was responsive to the concerns we raised in establishing the safe harbor for 2003, Treasury officials have recently indicated they intend to move forward with a certification approach for 2004 and future years. Attached is a draft submission, based on the Committee's recent conference call,<sup>3</sup> that reiterates the Institute's concerns with a certification-based safe harbor for 1099 reporting of qualified dividend income. Please provide any comments on the draft submission to the undersigned (dorlin@ici.org or 202/371-5436) or Keith Lawson (lawson@ici.org or 202/326- 5832) by Monday, May 24, 2004. David Orlin Assistant Counsel Attachment (in .pdf format)