

MEMO# 11514

January 3, 2000

IRS SIMPLIFIES INFORMATION REPORTING FOLLOWING MERGERS AND ACQUISITIONS

1 The new alternative reporting procedure also may apply to the preparation and filing of all forms in the series 1098 (used to report mortgage interest received from individuals and higher education tuition and related expenses) and forms W-2G (used to report gambling payments). 2 The successor also may elect to use the alternative reporting procedure where it absorbs all of the assets and liabilities of one or more corporations pursuant to a merger agreement. [11514] January 3, 2000 TO: OPERATIONS MEMBERS No. 1-00 PENSION MEMBERS No. 1-00 TAX MEMBERS No. 1-00 TRANSFER AGENT ADVISORY COMMITTEE No. 1-00 RE: IRS SIMPLIFIES INFORMATION REPORTING FOLLOWING MERGERS AND ACQUISITIONS

The Internal Revenue Service ("IRS") has released Revenue Procedure 99-50 which makes available a new (and optional) combined information reporting procedure (the "alternative reporting procedure") for certain successor business entities (i.e., a corporation, partnership or sole proprietorship) following a merger or acquisition. Under current rules, both the predecessor and successor generally are responsible for information reporting for the calendar year in which an acquisition occurs (the "acquisition year"). Of particular interest to mutual funds and their shareholders, the new alternative reporting procedure may apply to the preparation and filing of forms 1042-S (used to report foreign tax withholding and deductions), all forms in the series 1099 (used to report a variety of payments, including dividends, interest and proceeds) and all forms in the series 5498 (used to report contributions to various retirement and benefit plans). This memorandum only will discuss combined reporting under the alternative reporting procedure for forms 1042-S and all forms in the series 1099 and 5498.1 As a threshold matter, a successor may elect to use the alternative reporting procedure only if it acquires substantially all of the property (1) used in the trade or business of the predecessor or (2) used in a separate unit of a trade or business of the predecessor.2 In addition, for the alternative reporting procedure to apply, the predecessor (or separate unit thereof) must have been required to file information returns as a result of making or receiving payments, or withholding or collecting taxes, only during the pre-acquisition portion of the acquisition year. Under the alternative reporting procedure, the predecessor and successor must agree that the successor assumes the predecessor's entire information reporting obligations for those forms (e.g., forms 1042-S, 1099, 5498) to which their agreement applies. The predecessor will be relieved of its information reporting obligations for reportable transactions occurring in the acquisition year only if the successor satisfies each of the requirements, as described below. Selection

and Completion of Forms Eligible for the Alternative Reporting Procedure Under the alternative reporting procedure, the predecessor and successor may agree to (1) combined reporting for all forms 1042-S or all forms in the series 1099 or 5498; (2) limit the use of combined reporting to specific forms 1042-S or specific forms in the series 1099 or 5498; or (3) limit the use of combined reporting to specific reporting entities (such as any unit, branch or location within a particular business entity that files its own separate information returns). On each form to which the alternative reporting procedure applies, the successor must (1) combine the payments made or received on account of a person by the predecessor in the pre-acquisition portion of the acquisition year with any payments made or received on account of that person by the successor in the acquisition year and (2) report the aggregate amount(s) on account of that person for the acquisition year. For amounts that are required or permitted to be reported transactionally (e.g., broker sales of stock that must be reported on forms 1099-B), the successor must report each transaction of the predecessor and each of its transactions on each appropriate form. The successor may include with the forms to which the alternative reporting procedure applies additional information for the recipient explaining the combined reporting by the predecessor and successor. On each form to which the alternative reporting procedure applies, the successor also must (1) combine the amount of any tax withheld for a person by the predecessor in the pre-acquisition portion of the acquisition year with any amount similarly withheld for that person by the successor in the acquisition year and (2) report the aggregate amount(s) for the acquisition year. Statement Requirement The successor must file a statement with the IRS ("Rev. Proc. 99-50 statement") that (1) identifies the forms being filed on a combined basis in accordance with Revenue Procedure 99-50; (2) includes the name, address, telephone numbers and employer identification numbers of both the successor and predecessor; and (3) includes the name and telephone number of the person responsible for preparing the Rev. Proc. 99-50 statement. The Rev. Proc. 99-50 statement also must reflect the amount of any tax that has been withheld by the predecessor and successor for each type of form (e.g., form 1099-R or 1099-MISC). This "form-by-form" accounting is necessary to explain discrepancies, if any, between the amount of tax actually withheld and reported by the successor for the acquisition year on its form 945 or form 1042, and the withholding amounts reported by the successor on forms 1099 and forms 1042-S under the alternative reporting procedure (including amounts withheld by the predecessor during the pre-acquisition portion of the acquisition year). The successor must file a Rev. Proc. 99-50 statement for forms 1042-S together with its form 1042. The successor must file a Rev. Proc. 99-50 statement for forms in the series 1099 and 5498 separately from such forms and from the successor's form 945. Unless otherwise directed by the instructions to the forms, the successor must mail a Rev. Proc. 99-50 statement for forms in the series 1099 and 5498 to the IRS processing center in West Virginia on or before the date those forms are due. Effective Date 3The alternative reporting procedure is effective for forms 1042-S and forms in the series 1099 and 5498 filed after December 31, 1999. In addition, if a successor filed combined reporting forms on or before December 31, 1999, following acquisition of substantially all of the property used in the trade or business (or separate unit thereof) of the predecessor, the predecessor's reporting obligations will be deemed to have been satisfied with respect to amounts shown on those forms if the predecessor and successor have substantially complied with the combined reporting requirements of Revenue Procedure 99-50 (except for the Rev. Proc. 99-50 statement requirement). Deanna Flores Assistant Counsel Attachment Note: Not all recipients receive the attachment. To obtain a copy of the attachment referred to in this Memo, please call the ICI Library at (202) 326-8304, and ask for attachment number 11514. ICI Members may retrieve this Memo and its attachment from ICINet (<http://members.ici.org>).

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