

MEMO# 4376

December 31, 1992

NOTICE CLARIFIES INCREASE IN BACKUP WITHHOLDING RATE

December 31, 1992 TO: TAX MEMBERS NO. 82-92 ACCOUNTING/TREASURERS MEMBERS NO. 47-92 OPERATIONS MEMBERS NO. 53-92 TRANSFER AGENT ADVISORY COMMITTEE NO. 77-92 RE: NOTICE CLARIFIES INCREASE IN BACKUP WITHHOLDING RATE

As the Institute previously informed you, H.R. 776, the Energy Policy Act of 1992, passed in October, increased the backup withholding rate from 20 percent to 31 percent, effective for amounts paid after December 31, 1992. (See Institute Memorandum to Tax Members No. 68-92, Operations Members No. 40- 92, Transfer Agent Advisory Committee No. 63-92, and Institutional Funds Committee No. 24-92, dated October 16, 1992.) There had been some uncertainty as to the withholding rate to be applied to dividends paid under the provisions of Internal Revenue Code section 852(b)(7). That section provides that dividends declared in October, November or December to shareholders of record on a specified date in such month shall be deemed to have been received by the shareholders and paid by the regulated investment company on December 31, so long as the dividend is actually paid during the following January. It had been unclear whether such dividends would be considered paid on December 31, 1992, pursuant to Code section 852(b)(7), and thus subject to a 20 percent backup withholding rate, or as paid in 1993, when the actual cash distribution is made, and thus subject to a 31 percent backup withholding rate. Notice 93-1 provides that the rate at which backup withholding applies for dividends payable under Code section 852(b)(7) is 20 percent for dividends deemed paid on December 31, 1992, but actually distributed in January, 1993. However, the Notice states that there is no penalty if withholding is done at a 31 percent rate. We will keep you informed of further developments. David J. Mangefrida Jr. Assistant Counsel - Tax Attachment