

MEMO# 1480

October 20, 1989

IRS TEMPORARY REGULATIONS ON USE OF CERTAIN CORPORATE TAX ATTRIBUTES (SUCH AS CAPITAL LOSS CARRYFORWARDS)

October 20, 1989 TO: TAX MEMBERS NO. 41-89 CLOSED-END FUND MEMBERS NO. 59-89
RE: IRS TEMPORARY REGULATIONS ON USE OF CERTAIN CORPORATE TAX ATTRIBUTES
(SUCH AS CAPITAL LOSS CARRYFORWARDS)

_____ The attached temporary and proposed regulations provide guidance under section 383 regarding the use of certain corporate tax attributes (such as capital loss carryforwards) following an "ownership change." These regulations provide generally for coordination with the temporary regulations previously issued under section 382 (relating to limitations on net operating loss carryforwards and certain built-in losses following an ownership change). Thus, except as otherwise provided in the regulations, the rules in the section 382 regulations apply for purposes of section 383. Pursuant to section 383, a corporation's ability to utilize capital loss carryforwards would be subject to certain limitations if the percentage of stock owned by "5 percent shareholders" increased by more than 50 percentage points over the lowest percentage of stock of such corporation owned by such shareholders at any time during the prior three-year period (an "ownership change"). The Institute is presently studying any potential effect on funds of the so-called "segregation rules" in the section 382 regulations, which may cause shareholders who purchase shares of a mutual fund on any given day to be treated as a separate 5 percent shareholder (without regard to their actual ownership interest). These segregation rules would not apply, because of an exception for "exchange-traded securities," to closed-end funds. The Institute will be submitting comments to the IRS on these regulations. Because the comment period for these regulations ends on November 20, 1989, please inform the undersigned by November 4, 1989 of any comments you would like the Institute to make. We will keep you informed of developments. Keith D. Lawson Assistant General Counsel Attachment