

MEMO# 1000

February 23, 1989

RECENTLY REVISED IRS FORMS AND INSTRUCTIONS

- 1 - February 23, 1989 TO: TAX MEMBERS NO. 7-89 ACCOUNTING/TREASURERS
COMMITTEE NO. 11-89 RE: RECENTLY REVISED IRS FORMS AND INSTRUCTIONS

The Internal Revenue Service recently revised (1) the instructions for Form 1120-RIC and (2) Form 8613, the RIC Minimum Distribution Excise Tax Return, and its instructions. The instructions for each of these Forms reflect changes made by the Technical and Miscellaneous Revenue Act of 1988, which were summarized in Institute Memorandum to Tax Members No. 59-88, Closed-End Fund Members No. 55-88, Unit Investment Trust Members No. 69-88 and Accounting/Treasurer Advisory Committee No. 41-88, dated November 14, 1988. Non-legislative changes have been made to the instructions as well. Forms 1120-RIC and 8613 and the instructions for each are attached. The instructions for Form 1120-RIC have been amended to reflect, among other things, that (1) income from a partnership qualifies under the 90 percent test to the extent that the partnership receives income, which it passes through to the RIC, that would be qualifying income under the 90 percent test if received directly by the RIC; (2) gains realized on foreign currencies held for less than three months will, for taxable years beginning after November 10, 1988, be short-short income unless the currencies are directly related to the company's principal business of investing in stock or securities; (3) a RIC will not be disqualified under the 30 percent test if the short-short gains in excess of 30 percent were attributable to abnormal redemptions; (4) tax must be paid in certain circumstances on the net built-in gain of C corporation assets in connection with the qualification of a corporation to be taxed as a RIC or the transfer of such assets to a RIC in a carryover basis transaction; (5) dividends declared in October, November or December shall be treated as paid by the RIC and received by the shareholder on December 31 of such year if actually paid in January of the following year; and (6) a non-publicly offered RIC may make an election to treat as its affected RIC expenses 40 percent of its total expenses. Certain changes have also been - 2 - made to the estimated tax instructions and to the Schedule J tax computation instructions. The most important change to the Form 8613 instructions is the clarification that if a fund makes the election to compute its capital gain net income on the basis of its fiscal year ending November 30 or December 31 rather than on the basis of a twelve month period ending October 31, and if the first year the election is in effect is not the first year that the fund is subject to tax under section 4982, then the fund must compute its capital gain net income for the period beginning on November 1 of the year immediately preceding the election year and ending on the last day of the first year for which the election was made. The instructions for Form 8613 have also been amended to reflect that (1) in determining the amount of capital gain net income, such amount is reduced by the amount of the fund's net ordinary loss for the calendar year (but not below the amount of the fund's net capital gain); (2) dividends declared in October,

November or December shall be treated as paid by the RIC and received by the shareholder on December 31 of such year if actually paid in January of the following year; (3) investment company taxable income for the calendar year shall not include any foreign currency gain or loss attributable to section 988 transactions that would otherwise have been taken into account after October 31 of such year (but shall be taken into account in the following year) unless the fund has made an election to use its November 30 or December 31 fiscal year-end for section 4982 purposes; and (4) the excise tax does not apply to funds in which all the shareholders during the year were certain trusts or segregated asset accounts of a life insurance company. We will keep you informed of developments. Keith D. Lawson Assistant General Counsel Attachments

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