

**MEMO# 18947**

June 16, 2005

## **DRAFT LETTER TO TREASURY ON GENERAL APPLICATION OF CIRCULAR 230**

©2005 Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice. [18947] June 16, 2005 TO: ADVISER DISTRIBUTOR TAX ISSUES TASK FORCE No. 3-05 TAX COMMITTEE No. 20-05 RE: DRAFT LETTER TO TREASURY ON GENERAL APPLICATION OF CIRCULAR 230 The Institute has prepared for your review the attached draft letter to Treasury and the Internal Revenue Service requesting clarification of the potential application of the “covered opinion” rules of section 10.35 of Circular 230 to the mutual fund industry. Specifically, we request that additional guidance address, as examples of communications not subject to Circular 230: (1) mutual fund communications with prospective and current shareholders; (2) internal communications by in-house counsel of a mutual fund adviser regarding the tax treatment of the mutual funds that the firm manages; and (3) trade association communications to members. We also request related revisions to the definition of “covered opinion.” As we previously informed you, a conference call will be held this afternoon (Thursday, June 16) to discuss the general application of Circular 230.<sup>1</sup> We will discuss this letter during that call. Please provide any comments you have on the letter to the undersigned at your earliest convenience. We plan to file the letter no later than the morning of June 20. Keith Lawson Senior Counsel Attachment (in .pdf format) 1 See Institute Memorandum to Adviser Distributor Tax Issues Task Force No. 2-05 and Tax Committee No. 19-05, dated June 14, 2005.