

**MEMO# 3031**

August 23, 1991

## **NEW PROPOSED REGULATIONS ON POOLING OF ASSETS OF NUCLEAR DECOMMISSIONING TRUST FUNDS**

August 23, 1991 TO: TAX COMMITTEE NO. 28-91 INSTITUTIONAL FUNDS COMMITTEE NO. 5-91 RE: NEW PROPOSED REGULATIONS ON POOLING OF ASSETS OF NUCLEAR DECOMMISSIONING TRUST FUNDS

\_\_\_\_\_ As we previously informed you, the Treasury Department last year proposed regulations dealing with the permissible pooling arrangements for the investment of the assets of qualified and nonqualified nuclear decommissioning funds ("NDFs"). (See Institute Memorandum to Tax Committee No. 19-90, dated July 26, 1990.) These regulations would have allowed NDFs to invest in regulated investment companies ("RICs") which met certain conditions concerning assets and conduct. The Institute filed written comments and testified at an Internal Revenue Service ("Service") hearing generally in support of the proposed regulations, but with two specific suggested changes. (See Institute Memoranda to Tax Committee No. 27-90 and SEC Rules Committee No. 47-90, dated September 4, 1990, and to Tax Committee No. 38-90 and Institutional Funds Committee No. 6- 90, dated December 26, 1990.) These suggested changes would (1) exempt RICs from the self-dealing provisions of the Black Lung Benefit Trust provisions of the Internal Revenue Code which are substantially similar to restrictions in the Investment Company Act of 1940, and (2) remove the requirement that the RIC in which the NDF invests have only NDFs as shareholders. As a result of the public comments on the regulations, the Service has issued new, extensively revised proposed regulations, which are attached. The new regulations are proposed to be effective 180 days after the issuance of final regulations. The Institute is pleased that its comment on permitted shareholders has been accepted. The new proposed regulations contain no limitation on the persons who can be shareholders in a RIC which otherwise meets the requirements of the proposed regulations. Written comments on the proposed regulations must be received by October 3, 1991. In addition, a hearing will be held October 2, 1991, and requests to appear at the hearing and - 1 - outlines of oral comments must be received by September 18, 1991. Please let the undersigned, at (202) 955-3521, know no later than September 9, 1991, whether you would like the Institute to comment or testify. We will keep you informed of further developments. David J. Mangefrida, Jr. Assistant Counsel - Tax Attachment

should not be considered a substitute for, legal advice.