

**MEMO# 9065**

July 17, 1997

## **INSTITUTE LETTER TO STATES ON THRESHOLD REQUIREMENT FOR PASS- THROUGH TREATMENT**

\* See Institute memoranda to Board of Governors No. 11-97, Tax Members No. 9-97, Accounting/ Treasurers Members No. 8-97 and Money Market Funds Advisory Committee No. 4-97, dated February 25, 1997, and memoranda to Accounting/Treasurers Members No. 21-97, Money Market Funds Advisory Committee No. 5-97 and Tax Members No. 21-97, dated June 20, 1997. July 17, 1997 TO: TAX COMMITTEE No. 22-97 RE: INSTITUTE LETTER TO STATES ON THRESHOLD REQUIREMENT FOR PASS-THROUGH TREATMENT

As a result of the Institute's successful challenge of New Jersey's threshold requirement,\* only three states (California, Connecticut and New York) currently maintain threshold requirements that must be satisfied before mutual fund shareholders can exclude from state personal income tax the portion of their dividend income that is attributable to interest earned by the mutual fund on federal obligations. In connection with the Institute's efforts to eliminate threshold requirements, the attached letter was sent to California urging the state to eliminate its threshold requirement (California's threshold requires that at least 50% of a fund's assets consist of certain obligations). A version of the letter was also sent to Connecticut regarding its 50% of assets threshold requirement. In the letters, the Institute (1) discusses several court cases which struck down threshold requirements, and (2) explains why a threshold requirement produces unequal and unfair tax treatment of moderate income investors who invest in mutual funds. As you may know, the Institute is working with counsel in New York regarding a pending legislative proposal to repeal New York's 50% of assets threshold requirement. We will keep you informed of further developments. Anne M. Barr Associate Counsel - Tax Attachment (in .pdf format)