

MEMO# 4643

March 31, 1993

PRIVATE LETTER RULING ON DEFINITION OF GROSS INCOME OF A PUBLICLY- TRADED PARTNERSHIP

March 31, 1993 TO: TAX COMMITTEE NO. 17-93 RE: PRIVATE LETTER RULING ON
DEFINITION OF GROSS INCOME OF A PUBLICLY-TRADED PARTNERSHIP

Attached is a private letter ruling concerning the proper amount reportable as gross income with respect to a publicly- traded partnership. The Institute understands that the publicly- traded partnership which obtained the ruling is Servicemaster, which provides management services, including training, management and direction of customers' employees, pursuant to fixed price contracts. The consideration paid to Servicemaster by its customers under the contracts is the "net contract amount", which equals the difference between the "gross contract amount" and the "gross payroll" of the customer. Servicemaster asked for a ruling that its gross income, for purposes of the partnership provisions of the Internal Revenue Code (the "Code"), equalled the net contract amount. It would appear that there was some concern that gross income might be considered to be the gross contract amount, a figure apparently many times larger than the net contract amount. The character of a separate item of income of a partnership, such as its gross income, passes through to partners if it would affect their tax to take the separate item into account. Because the gross income of a partnership apportioned to a regulated investment company ("RIC") partner generally is considered income from the active conduct of a trade or business, such income is not "good income" for purposes of Code section 851(b)(2). Thus, gross income affects the tax treatment of a RIC which receives it, and it must be separately taken into account when earned by the partnership in which the RIC is an investor. The Internal Revenue Service ruled that, because the net contract amount was the only money which Servicemaster was eligible to receive, Servicemaster's gross income is the net contract amount, not the gross contract amount. This holding will substantially reduce the "bad income" for Code section 851(b)(2) purposes of any RIC which holds a partnership interest in Servicemaster. We will keep you informed of further developments. David J. Mangefrida Jr. Assistant Counsel - Tax Attachment