

MEMO# 15700

February 26, 2003

NEW JERSEY PROPOSED REGULATIONS

[15700] February 26, 2003 TO: TAX COMMITTEE No. 9-03 RE: NEW JERSEY PROPOSED REGULATIONS The New Jersey Division of Taxation has released proposed regulations¹ with respect to the Business Tax Reform Act² that was passed on July 2, 2002 and is effective for periods beginning on and after January 1, 2002. The proposed regulations incorporate guidance from a recent private ruling³ that clarified that a Regulated Investment Company ("RIC") is not subject to New Jersey's new Alternative Minimum Assessment ("AMA") if the RIC is also an Investment Company as defined in the New Jersey Statute. In order to claim the Investment Company exemption from the AMA, a statement indicating that the RIC qualifies as an Investment Company should be attached to the RICs tax return. The proposed regulations specifically address nexus with respect to management companies and indicate that "[a]n entity regularly providing asset management services . . . from a location outside New Jersey to customers within New Jersey is subject to tax in New Jersey."⁴ Receipts with respect to asset management services provided to a RIC, shall be allocated to New Jersey to the extent that shareholders of the [RIC] are domiciled in New Jersey . . . "⁵ Moreover, receipts with respect to asset management services provided directly or indirectly to a pension plan, retirement account or institutional investor "shall be allocated to New Jersey to the extent the domicile of the beneficiaries of the plan [or account] is in New Jersey."⁶ The proposed regulations indicate that asset management services include "the rendering of investment advice, making determinations as to when sales and purchases are to be made, or the selling or purchasing of assets and related activities."⁷ 1 The proposed regulations are available at <http://www.state.nj.us/treasury/taxation/pdf/cbtreform.pdf> and are attached to the electronic version of this memorandum. 2 P.L. 2002, c. 40. 3 See, Institute Memorandum to Tax Members No. 9-03, dated February 5, 2003. 4 Section 18:7-1.6(c). 5 Section 18:7-8.10(3). 6 Section 18:7-8.10(2). 7 Section 18:7-8.10(4)(i). Related activities, under the proposed regulations, include "administration services, distribution services, management services and other related services." Id. 2 A conference call has been scheduled for tomorrow, February 27th at 2:30 (EST), to discuss the proposed regulations. Please complete the attached response form if you would like to join the call. Catherine Barré Assistant Counsel Attachment (NJ CBT Cover Letter) Attachment (NJ CBT Proposed Regs) Attachment (Response Form)