

**MEMO# 15572**

January 24, 2003

# **TREASURY AND IRS AMEND EFFECTIVE DATE OF REGULATIONS ADDRESSING ABUSIVE TAX AVOIDANCE TRANSACTIONS**

[15572] January 24, 2003 TO: 529 PLAN ADVISORY COMMITTEE No. 5-03 ACCOUNTING/TREASURERS MEMBERS No. 5-03 ADVISER DISTRIBUTOR TAX ISSUES TASK FORCE No. 1-03 TAX MEMBERS No. 6-03 UNIT INVESTMENT TRUST MEMBERS No. 1-03 RE: TREASURY AND IRS AMEND EFFECTIVE DATE OF REGULATIONS ADDRESSING ABUSIVE TAX AVOIDANCE TRANSACTIONS As we previously informed you, the Treasury Department ("Treasury") and the Internal Revenue Service ("IRS") released last fall amended temporary and proposed regulations to combat abusive tax shelter transactions under sections 6011 and 6112 of the Internal Revenue Code (the "Code"). 1 Specifically, Treasury and the IRS revised and clarified the definition of "reportable transaction" and the definition of "organizer and seller" (collectively called "material advisors") to ensure that the IRS receives the information needed to evaluate certain types of potentially abusive transactions and to improve compliance. The temporary regulations generally are effective for transactions entered into on or after January 1, 2003. Taxpayers are not required to disclose reportable transactions, as defined under the temporary disclosure regulations, until the time they file their tax return reporting those transactions. However, under the temporary list maintenance regulations, material advisors have an immediate obligation to maintain lists with respect to reportable transactions. Notice 2003-11, issued January 17, 2003, provides that the effective dates set forth in the temporary regulations with respect to disclosures of "reportable transactions" under section 6011 and the listing of those transactions by advisors under section 6112 will be modified when those regulations are finalized. The effective date modifications are in anticipation of revisions that will narrow the scope of the definition of a reportable transaction. The IRS intends to publish final regulations in February 2003. Although the temporary regulations currently are in effect for transactions entered into on or after January 1, 2003, the taxpayer will have the option of reporting transactions occurring on or after that date and before the filing date of the final regulations under Code section 6011 1 See Institute Memorandum to Accounting/Treasurers Committee No. 49-02, Tax Committee No. 35-02 and Unit Investment Trust Committee No. 25-02, dated November 1, 2002. 2 either on the basis of the temporary regulations or the final regulations. Thus, if such transactions are reportable under the temporary regulations but not the final regulations to be issued, the taxpayer may elect to apply the final regulations. Regarding the effective date for the list maintenance requirement, the list maintenance requirements will not apply to transactions entered into on or after January 1, 2003 and before the filing date of the revised regulations under Code

section 6112, except that the delayed effective date will not apply to listed transactions or transactions that are “section 6111” shelters, as defined in section 301.6112-1T(b)(1) of the temporary regulations. Lisa Robinson Assistant Counsel Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 15572, or call the ICI Library at (202) 326-8304 and request the attachment for memo 15572. Attachment (in .pdf format)

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