

MEMO# 2678

April 9, 1991

INSTITUTE LETTER TO STATES THAT IMPOSE THRESHOLD REQUIREMENT ON PASS-THROUGH TREATMENT

1 */ California, Missouri, Nebraska, New Jersey, New Mexico, New York, South Carolina April 9, 1991 TO: TAX COMMITTEE NO. 8-91 RE: INSTITUTE LETTER TO STATES THAT IMPOSE THRESHOLD REQUIREMENT ON PASS-THROUGH TREATMENT

At its last meeting, the Tax Committee determined that the Institute should write a letter to those states */1 that impose a threshold requirement that must be met before a mutual fund can pass-through fund dividends attributable to federal obligation interest free of state tax. In the attached letter to these seven states, the Institute discusses several court decisions which indicate that any such threshold requirement violates federal law. Recent court decisions in Maryland and Nebraska are discussed in greater detail because each of these states has percentage threshold requirements discussed in those cases. The letter urges the states to reconsider their requirements for pass-through treatment and eliminate the threshold requirements currently being imposed. As you may know, the Institute is working with counsel in Pennsylvania to secure legislation permitting pass-through treatment. Activities are also underway to secure pass-through treatment in Connecticut. The Committee has previously determined that obtaining pass-through treatment in these two states has priority over efforts to eliminate percentage threshold requirements. We will keep you informed of developments. Keith D. Lawson Associate Counsel - Tax KDL:bmb Attachment

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