

MEMO# 3286

November 22, 1991

EXEMPTION FROM DELAWARE CORPORATE INCOME TAX FOR REGULATED INVESTMENT COMPANIES

November 22, 1991 TO: TAX MEMBERS NO. 53-91 RE: EXEMPTION FROM DELAWARE
CORPORATE INCOME TAX FOR REGULATED INVESTMENT COMPANIES

The attached Tax Ruling 91-1 from the Delaware Division of Revenue clarifies the treatment of regulated investment companies ("RICs") for purposes of the Delaware corporate income tax. Among the issues dealt with in the Ruling are the following: 1. A RIC which is a Delaware business trust that is treated as a corporation for federal income tax purposes also will be treated as a corporation for Delaware purposes. 2. A Delaware RIC is exempt from Delaware corporate tax only if it meets certain requirements, including the requirement that its income be derived solely from investments in intangible assets. For purposes of this requirement, a RIC, all of whose gross income is described in section 851(b)(2) of the Internal Revenue Code of 1986, will be considered to have met this requirement. However, the RIC's income must be derived solely from qualified income as defined in Code section 851(b)(2). Fee waivers, expense reimbursements by the fund manager and other income of this sort will be considered derived from the business of investing in intangible property, and will not cause a RIC to become taxable as a corporation upon receipt of such income by the RIC. We will keep you informed of further developments. David J. Mangefrida, Jr. Assistant Counsel - Tax Attachment DJM:bmb

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