

**MEMO# 2524**

February 7, 1991

## **RIC GRANTED EXTENSION TO MAKE RETROACTIVE QEF ELECTION FOR TWO PFICS**

February 7, 1991 TO: TAX MEMBERS NO. 2-91 INTERNATIONAL FUNDS TASK FORCE NO. 1-91 RE: RIC GRANTED EXTENSION TO MAKE RETROACTIVE QEF ELECTION FOR TWO PFICS

The attached letter ruling involves a request under Treasury Regulation section 1.9100-1(a) for an extension of time for a regulated investment company ("RIC") to make a retroactive qualified electing fund ("QEF") election under section 1296(b)(2) of the Internal Revenue Code ("Code"), as provided for by the Technical and Miscellaneous Revenue Act of 1988 ("TAMRA"). Code section 1296(b)(2) allows a passive foreign investment company ("PFIC") shareholder to make a QEF election and be taxed currently on the PFIC's earnings. Prior to TAMRA, the QEF election was made by the PFIC, not by the PFIC shareholder. This treatment was changed by TAMRA section 6127 to allow each PFIC shareholder to make the election separately. Procedures for making retroactive QEF elections, as provided for under TAMRA, were provided by IRS Notice 88-125. (See Institute memorandum to Tax Members No. 68-88, dated December 22, 1988.) According to the letter ruling, the RIC's auditors failed to inform it of the ability to make the retroactive QEF election until after the time for making that election had passed. Therefore, pursuant to Treasury Regulation 1.9100-1(a), the Internal Revenue Service granted the RIC's request to make the retroactive QEF election late. We will keep you informed of further developments. David J. Mangefrida, Jr. Assistant General Counsel Attachment DJM:bmb