

MEMO# 14595

April 2, 2002

INSTITUTE COMMENTS ON NEW PROPOSED REGULATIONS UNDER SECTION 337 (D) REGARDING CERTAIN ASSET TRANSFERS TO REGULATED INVESTMENT COMPANIES

[14595] April 2, 2002 TO: ACCOUNTING/TREASURERS COMMITTEE No. 14-02 TAX MEMBERS No. 16-02 RE: INSTITUTE COMMENTS ON NEW PROPOSED REGULATIONS UNDER SECTION 337 (D) REGARDING CERTAIN ASSET TRANSFERS TO REGULATED INVESTMENT COMPANIES

The Institute has submitted the attached letter to the Internal Revenue Service ("IRS") commenting on temporary and proposed regulations¹ published in the Federal Register on January 2, 2002, under section 337(d) of the Internal Revenue Code relating to the proper tax treatment of C corporation assets that become assets of a regulated investment company ("RIC") or a real estate investment trust ("REIT") either by (1) the qualification of the C corporation as a RIC or REIT or (2) the transfer of assets of a C corporation to a RIC or REIT in a carryover basis transaction. The new regulations are intended to replace the temporary and proposed regulations issued by the IRS under section 337(d) on February 7, 2000 (the "2000 regulations"). Our comments first acknowledge the consideration given to our comments on the 2000 regulations and recognize that the new regulations incorporate essentially all of the modifications that we recommended. Second, we recommend that the final regulations be clarified with respect to the carryover loss provisions. It appears that the carryover loss provisions of the regulations may have been intended to mean that a capital loss carryover from subchapter C years that reduces net recognized built-in gain of a RIC does not likewise reduce the amount of such gain for purposes of subchapter M. We recommend that the final regulations make clear that to the extent a capital loss carryover reduces net recognized built-in gain, it similarly reduces the amount of that gain for subchapter M purposes. We believe that consideration of the limited purposes of section 337(d) and of the treatment of RICs acquiring C corporation assets prior to the repeal of General Utilities demonstrates that this treatment is correct. Catherine Barré Attachment (in .pdf format) Assistant Counsel 1 See Institute Memorandum to Accounting/Treasurers Committee No. 2-02 and Tax members No. 1-02, dated Jan. 4, 2002. 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 14595, or call the ICI Library at (202) 326-8304 and request the attachment for memo 14595.

Source URL: <https://icinew-stage.ici.org/memo-14595>

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.