

**MEMO# 2397**

December 18, 1990

# **NEBRASKA COURT STRIKES DOWN 80 PERCENT MINIMUM ASSET REQUIREMENT FOR PASS-THROUGH TREATMENT OF FEDERAL OBLIGATION INTEREST**

December 18, 1990 TO: MONEY MARKET MEMBERS - ONE PER COMPLEX NO. 19-90 TAX MEMBERS NO. 56-90 RE: NEBRASKA COURT STRIKES DOWN 80 PERCENT MINIMUM ASSET REQUIREMENT FOR PASS-THROUGH TREATMENT OF FEDERAL OBLIGATION INTEREST

A Nebraska district court has recently ruled, in the attached opinion, that the 80% minimum asset requirement imposed on regulated investment companies ("RICs") in order to qualify for the pass-through of federal obligation interest violates federal law and the U.S. Constitution. Under the Nebraska statute at issue, income received by a taxpayer from a RIC which was derived from interest on U.S. government obligations shall be included in taxable income for purposes of the Nebraska Individual Income Tax unless 80% or more of the RIC's assets for every quarter of the taxable year were directly-owned U.S. government obligations. The court also ruled that interest received on repurchase agreements involving U.S. government obligations is exempt from state income tax. We have been informed that Nebraska intends to appeal the case to the Nebraska Supreme Court. We will keep you informed of further developments. David J. Mangefrida, Jr. Assistant General Counsel  
Attachment