

MEMO# 15454

December 17, 2002

DRAFT SUBMISSION FOR YOUR REVIEW REGARDING CONTINUITY OF BUSINESS ENTERPRISE GUIDANCE FOR RIC MERGERS

[15454] December 17, 2002 TO: TAX COMMITTEE No. 40-02 RE: DRAFT SUBMISSION FOR YOUR REVIEW REGARDING CONTINUITY OF BUSINESS ENTERPRISE GUIDANCE FOR RIC MERGERS Attached for your review is a draft submission to the Internal Revenue Service requesting the issuance of published guidance clarifying the application to RICs of the “historic business” test for determining business continuity under the tax-free merger rules of section 368(a)(1) of the Internal Revenue Code. This draft reflects comments on the draft that was circulated prior to the last tax committee meeting.¹ Specifically, the submission requests clarification that all RICs are in the same business and, consequently, that a merger of two RICs satisfies the business continuity test so long as the surviving RIC continues to be a RIC following the merger. Alternatively, the submission requests guidance holding that business continuity is satisfied so long as the acquiring, target, and surviving RICs invest their assets in either (a) taxable securities (stocks and/or taxable bonds) or (b) tax-exempt bonds. ACTION REQUESTED Please provide your comments on the draft submission to the undersigned (cbarre@ici.org or (202) 326-5821) by Friday, January 10, 2003. Catherine Barré Assistant Counsel Attachment (in .pdf format) 1 See Institute Memorandum to Tax Committee No. 32-02, dated October 10, 2002.