

MEMO# 5954

June 10, 1994

IRS RULING CONCERNING REGULATED INVESTMENT COMPANY INVESTMENTS IN PARTNERSHIPS

June 10, 1994 TO: ACCOUNTING/TREASURERS MEMBERS NO. 15-94 CLOSED-END FUND COMMITTEE NO. 14-94 TAX MEMBERS NO. 25-94 RE: IRS RULING CONCERNING REGULATED INVESTMENT COMPANY INVESTMENTS IN PARTNERSHIPS

Today, the IRS issued the attached revenue ruling (Revenue Ruling 94-40) clarifying the application of the excise tax minimum distribution rules of Internal Revenue Code section 4982 to a regulated investment company ("RIC") holding an interest in a partnership. The ruling states that a RIC partner in a partnership must determine its required distribution under section 4982 by taking into account its share of partnership gain or loss as if the RIC had owned directly its share of the partnership's assets. The ruling applies to all RIC partnership investments, including RICs organized as feeder funds in master- feeder structures. The ruling applies beginning with calendar year 1994. As a result of issuing the ruling, the IRS has indicated that it will now resume issuing rulings on master-feeder structures. Ordinarily, a partner includes in income its share of the partnership's income on the last day of the partnership fiscal year. The ruling modifies that rule by accelerating a RIC's recognition of income for section 4982 purposes to the date the income would be recognized if received directly by the RIC. The ruling states, however, that for purposes of determining the RIC's earnings and profits, a RIC that is a partner in a partnership continues to take into account its share of the partnership's income on the last day of the partnership's fiscal year. If the RIC's taxable year is different from the partnership's year end, the RIC could have income for purposes of the section 4982 required distribution rule but not have earnings and profits to support a distribution. Announcement 94-84, which accompanied the ruling, asks for comments concerning whether there should be exceptions to the application of Revenue Ruling 94-40 for small investments in partnerships. The Announcement seeks comments on how such a de minimis rule should be structured and whether it should be elective. Comments on the issue must be received by August 11, 1994. Please contact the undersigned at (202) 326-5837 with any suggestions for Institute comments by July 8, 1994. Peter J. Cinquegrani
Assistant Counsel - Tax Attachment