

**MEMO# 8665**

February 25, 1997

## **INSTITUTE VICTORY IN NEW JERSEY PASS-THROUGH LITIGATION**

February 25, 1997 TO: BOARD OF GOVERNORS No. 11-97 TAX MEMBERS No. 9-97  
ACCOUNTING/TREASURERS MEMBERS No. 8-97 MONEY MARKET FUNDS ADVISORY  
COMMITTEE No. 4-97 RE: INSTITUTE VICTORY IN NEW JERSEY PASS-THROUGH LITIGATION

As you may know, since 1983 the Institute has been seeking recognition by all fifty states of the exemption from state tax for mutual fund dividends derived from interest on federal obligations. Although all states now permit a fund to pass-through to its shareholders a dividend that will be free from state tax when derived from federal interest, a few states impose asset thresholds on this pass-through. For example, New Jersey requires that 80 percent of a fund's assets be invested in federal obligations for the fund to pay a dividend exempt from New Jersey state tax. In 1993, the Institute filed a suit in the New Jersey Tax Court seeking a declaratory judgment striking down the New Jersey threshold requirement. We are very pleased to report that, in the attached opinion, the New Jersey Tax Court ruled that the New Jersey threshold requirement cannot be applied to a mutual fund. The Court held that the taxation of shareholders of funds not meeting the 80 percent asset threshold would be inconsistent with the Supremacy Clause of the U.S. Constitution. We will keep you informed of further developments. Catherine L. Heron Vice President and Senior Counsel Attachment (in .pdf format) Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Information Resource Center at (202)326-8304, and ask for this memo's attachment number: 8665.

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