

**MEMO# 8417**

November 26, 1996

## **INSTITUTE SUBMISSION TO IRS ON MULTIPLE-CLASS FUNDS**

1 See Institute Memoranda to Tax Committee No. 35-96, dated November 14, 1996, and to Accounting/Treasurers Members No. 25-96 and Tax Members No. 43-96, dated September 10, 1996. 2 See Institute Memorandum to Accounting/Treasurers Committee No. 30-96 and Tax Committee No. 27-96, dated July 25, 1996. November 26, 1996 TO:

ACCOUNTING/TREASURERS COMMITTEE No. 47-96 TAX COMMITTEE No. 36-96 RE:  
INSTITUTE SUBMISSION TO IRS ON MULTIPLE-CLASS FUNDS

Attached is a copy of the Institute's submission to the IRS in response to IRS Announcement 96-95, which requested comments regarding the treatment under the preferential dividend rules of (1) expense waivers and reimbursements in multiple-class funds, and (2) investment advisory fees that differ among the classes of a multiple-class fund because the fees are based on the investment performance of each class.<sup>1</sup> The submission includes (1) a memorandum providing additional comments in support of the Institute's proposal for a safe harbor under the preferential dividend rules for expense waivers and reimbursements (the proposal was submitted to the IRS in July 1996<sup>2</sup>), and (2) an attachment to the memorandum that contains the Institute's responses to the six numbered questions set forth in the Announcement. In the submission, the Institute urges the IRS to adopt requirements for waivers and reimbursements in multiple-class funds that are consistent with those imposed by the SEC. The submission also analyzes the treatment of performance-based advisory fees under the preferential dividend rules and concludes that permitting such fees would be consistent with the relevant tax policies. Furthermore, the submission reminds the IRS that issues relating to multiple-class funds are very important to our members and that we would like to resolve these issues as soon as possible. We will keep you informed of developments. Anne M. Barr Associate Counsel - Tax Attachment