

MEMO# 19276

October 20, 2005

INSTITUTE AMICUS BRIEF IN LANCO APPEAL

©2005 Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice. [19276] October 20, 2005 TO: ADVISER DISTRIBUTOR TAX ISSUES TASK FORCE No. 8-05 TAX MEMBERS No. 26-05 RE: INSTITUTE AMICUS BRIEF IN LANCO APPEAL The Institute has filed the attached brief as amicus curiae in Lanco, Inc.'s appeal to the New Jersey Supreme Court of a decision of a New Jersey appellate court, which held that New Jersey may apply its corporation business tax to a nonresident entity with no physical presence in New Jersey.¹ The appellate court reversed the decision of the New Jersey Tax Court, which held that this attempt at taxation exceeded the State's taxing authority under the United States Constitution.² The Institute's brief asserts that application of New Jersey's Corporation Business Tax to taxpayers that have no physical presence in New Jersey is an unconstitutional exercise of the State's taxing authority. Lisa Robinson Associate Counsel Attachment (in .pdf format) Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 19276, or call the ICI Library at (202) 326-8304 and request the attachment for memo 19276. 1 See Institute Memorandum (19125) to Adviser Distributor Tax Issues Task Force No. 7-05 and Tax Members No. 23-05, dated August 29, 2005 for New Jersey appellate decision; and see Institute Memorandum (17890) to Adviser Distributor Tax Issues Task Force No. 9-04 and Tax Members No. 38-04, dated August 11, 2004 for the Institute's brief submitted amicus curiae in the litigation before the Superior Court of New Jersey, Appellate Division. 2 Lanco, Inc. v. Dir., Div. of Taxation, 21 N.J. Tax 200 (2003).

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