

**MEMO# 4966**

July 9, 1993

# **INSTITUTE STATEMENT ON TAX SIMPLIFICATION**

July 9, 1993 TO: PENSION COMMITTEE NO. 24-93 TAX COMMITTEE NO. 33-93 RE: INSTITUTE STATEMENT ON TAX SIMPLIFICATION

As part of this year's tax legislative process, the House Ways and Means Subcommittee on Select Revenue Measures has been holding hearings on pending and proposed legislation. Among the items subject to the hearings are proposed modifications to provisions contained in H.R. 13, the Tax Simplification Act of 1993, which was introduced this January by Ways and Means Committee Chairman Rostenkowski. (See Institute Memoranda to Tax Members No. 5-93, Accounting/Treasurers Members No. 3-93, Closed-End Fund Members No. 4-93, Operations Members No. 4-93, Unit Investment Trust Members No. 4-93, International Members No. 4-93 and Transfer Agent Advisory Committee No. 3-93, dated January 13, 1993 and to Pension Members No. 4-93, dated January 14, 1993.) The Institute has submitted the attached written statement regarding proposed modifications to provisions in H.R. 13 relating to (1) tax-free conversions of bank common trust funds, (2) shareholder basis reporting and (3) nondiscrimination safe harbors for salary reduction SEPs.

**Tax-Free Conversion of Bank Common Trust Fund.** The Institute supports the proposed change to permit a bank common trust fund to transfer substantially all of its assets to one or more regulated investment companies ("RICs") pursuant to a single plan on a tax-free basis. Since current law would permit the tax-free split up of a common trust fund and H.R. 13 would permit the tax-free conversion of a common trust fund to a RIC, there would appear to be no policy justification for prohibiting a common trust fund from accomplishing each of these objectives in one step.

**Shareholder Basis Reporting.** The Institute urges the Committee to adopt a shareholder basis reporting requirement for mutual fund shareholders that limits shareholder confusion and administrative difficulties arising from amended cost basis statements. The Institute also supports, with modifications, the special provisions of H.R. 13 relating to wash sales and sales load basis deferral. Specifically, the Institute suggests that the wash sale rule of Code section 1091 be modified to disregard any shares purchased in January of the year following the year in which shares were redeemed at a loss from a "covered account" and either (a) the shares were purchased on any date in January pursuant to a dividend reinvestment plan or (b) the amount of the loss that would be disallowed by Code section 1091 is \$25 or less. In addition, the sales load basis deferral rule of Code section 852(f) should not apply where the shareholder (a) computes basis using the average cost method and (b) acquires fund shares at a reduced or waived load after January 31 of the year following the year of the redemption.

**Nondiscrimination Safe Harbors for Salary Reduction SEPs.** The Institute urges that H.R. 13 be amended to apply the nondiscrimination safe harbors to both 401(k) plans and salary reduction SEPs. The salary reduction SEP is intended as a simpler and easier-to-administer

alternative to the qualified 401(k) plan and thus should not be subject to more rigorous non-discrimination testing than the 401(k) plan. We will keep you informed of developments. Keith D. Lawson Associate Counsel - Tax Kathy D. Ireland Associate Counsel - Pension Attachment

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