The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

MEMO# 15437

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CONFERENCE CALL TO DISCUSS TAX ISSUES

[15437] December 9, 2002 TO: VARIABLE INSURANCE PRODUCTS ADVISORY COMMITTEE No. 4-02 RE: CONFERENCE CALL TO DISCUSS TAX ISSUES The Variable Insurance Products Advisory Committee will hold a conference call on Friday, December 13, at 2:00 p.m. (Eastern Time) to discuss two tax issues that have been suggested as legislative issues that the Institute may wish to pursue; consideration of these possible legislative proposals is at an early stage. Other tax issues that Committee members would like to suggest can be considered, time permitting, after these two issues are discussed. The first possible legislative proposal involves modifying the diversification safe harbor in Section 817(h)(2) of the Internal Revenue Code to eliminate the requirement that a segregated asset account have no more than 55 percent of its assets in cash, cash items, Government securities and securities of other regulated investment companies ("RICs"); thus, under the proposal, a segregated asset account would meet the safe harbor so long as the Code Section 851(b)(3) diversification test for RICs was satisfied. The most significant effect of this proposal would be to provide comparable treatment for both variable life insurance contracts and variable annuity contracts with respect to investing in US Treasury securities; under the proposal, a segregated asset account of a variable annuity contract (like a variable life insurance contract) could to be invested, directly or indirectly, exclusively in US Treasury obligations. The second possible legislative proposal would permit variable annuities to invest in publicly-available RICs. This proposal effectively would reverse the Internal Revenue Service guidance (most notably in Revenue Ruling 81-225) prohibiting the mixing of retail and insurance separate accounts within the same fund. Under the IRS guidance, the investment of insurance contract assets in a publicly-available fund would provide the insurance contract holder with "investor control" over the accounts' underlying investments -- with the result that the variable contract holder would be treated as the owner of the underlying assets for tax purposes and, therefore, that the income from the investment would be taxed currently (rather than deferred, as under a variable contract). 2 To participate in the call, please contact the Institute's Ezella Wynn at ewynn@ici.org or 202/218-3560. If you cannot participate in the call but would like to share your thoughts on these possible proposals, and/or if you have additional issues that you would like to raise, please contact the undersigned at 202/326-5832 or lawson@ici.org. Keith Lawson Senior Counsel