

MEMO# 8763

April 1, 1997

INSTITUTE LETTER AND STATEMENT ON TAX LEGISLATIVE MATTERS

1 See Institute Memorandum to Tax Members No. 7-97 (and others), dated February 12, 1997. April 1, 1997 TO: TAX COMMITTEE No. 12-97 RE: INSTITUTE LETTER AND STATEMENT ON TAX LEGISLATIVE MATTERS

As you know, repeal of the so-called "30 percent test" of Internal Revenue Code section 851(b)(3) is the Institute's number one "tax" legislative priority for 1997. In the attached letter to Treasury Department Secretary Rubin, the Institute urges that the Clinton Administration's 1997 legislative proposal for tax simplification include a provision to repeal this test. The Institute also has submitted to the House Ways and Means Committee the attached written statement on three revenue raising provisions in the Clinton Administration's Fiscal Year 1998 budget proposal.¹ Summarized below are the three proposals (all of which also were part of the Administration's budget proposal for 1997) and the Institute's comments. (1) Mandatory Use of the Average Cost Basis Method by All Securities Sellers. The Administration has proposed to require that all securities sellers compute cost basis using the average cost method. The Institute strongly opposes this proposal because it would increase taxes on securities investors, reduce incentives to save and discourage capital investment. The proposal also would substantially complicate basis calculations for millions of investors. (2) Increased Penalties for Failure to File Correct Information Returns. The Administration has proposed to increase the maximum penalty for failure to file correct information returns -- currently set at \$50 per return -- to the greater of \$50 per return or 5 percent of the aggregate amount required to be reported correctly (subject, in general, to a \$250,000 cap). The Institute opposes this proposal; the industry maintains a high level of information reporting compliance and the current penalty structure provides powerful incentives for regulated investment companies ("RICs") to promptly correct any errors made. (3) Conversions of Large C Corporations to S Corporations. The Administration has proposed to require current gain recognition on the conversion of a large C corporation to an S corporation. The Institute recommends that, should this proposal be enacted, the legislative history to the proposal include a statement making it clear that the proposal would not impact an IRS Notice (No. 88-96) that provides RICs with a safe harbor from recognition of built-in gain in situations in which a RIC temporarily fails to qualify under Subchapter M. We will keep you informed of developments. Keith D. Lawson Associate Counsel - Tax Attachments (in .pdf format)

should not be considered a substitute for, legal advice.