

**MEMO# 16148**

June 2, 2003

## **DRAFT INSTITUTE COMMENTS ON NEW JERSEY PROPOSED REGULATIONS FOR YOUR REVIEW**

[16148] June 2, 2003 TO: TAX COMMITTEE No. 30-03 RE: DRAFT INSTITUTE COMMENTS ON NEW JERSEY PROPOSED REGULATIONS FOR YOUR REVIEW As we previously informed you,<sup>1</sup> the New Jersey Division of Taxation released Special Adopted and Concurrent Proposed Amendments to the Corporation Business Tax Regulations that were published in the New Jersey Register on April 7, 2003 (the "proposed regulations"). The proposed regulations specifically address nexus with respect to management companies and indicate that "[a]n entity regularly providing asset management services . . . from a location outside New Jersey to customers within New Jersey is subject to tax in New Jersey."<sup>2</sup> Receipts with respect to asset management services provided to a RIC, shall be allocated to New Jersey to the extent that shareholders of the [RIC] are domiciled in New Jersey . . . "<sup>3</sup> We have prepared for your review the attached draft comment letter on the proposed regulations. Our comments assert that the subjectivity and apportionment provisions of the proposed regulations as applied to entities that provide asset management services to regulated investment companies from a location outside of New Jersey exceed the state's constitutional authority to tax under the commerce and due process clauses of the United States Constitution. Comments are due on June 6, 2003. ACTION REQUESTED We will discuss the letter at the Tax Committee meeting in Denver on Thursday, June 5, 2003. If you will not be attending the meeting, we request that you call the undersigned (cbarre@ici.org or 202/326-5821) or Keith Lawson (klawson@ici.org or 202/326-5832) with your 1 See, Institute Memorandum to Tax Committee, No. 9-03, dated February 26, 2003. 2 Section 18:7-1.6(c). 3 Section 18:7-8.10(3). 2 comments and suggestions by Tuesday, June 3, 2003. If you are unable to call by Tuesday, June 3, 2003, please email your comments to Keith by Thursday, June 5, 2003. Catherine Barré Assistant Counsel Attachment (in .pdf format)