

**MEMO# 11658**

February 17, 2000

# **PROPOSED FASIT REGULATIONS TREAT US DOLLAR-DENOMINATED MONEY MARKET FUNDS AS "CASH AND CASH EQUIVALENTS"**

1 See Institute Memorandum to Tax Committee No. 35-98, dated November 3, 1998. 2 See Prop. Treas. Reg. 1.860H-2(c)(4). [11658] February 17, 2000 TO: TAX COMMITTEE No. 8-00 RE: PROPOSED FASIT REGULATIONS TREAT US DOLLAR-DENOMINATED MONEY MARKET FUNDS AS "CASH AND CASH EQUIVALENTS"

The financial asset securitization investment trust ("FASIT") is a relatively new tax vehicle which is intended to facilitate the securitization of debt instruments, including non-mortgage and mortgage debt instruments. Among other requirements, the assets of a FASIT must substantially consist of certain types of permissible investments, including "cash and cash equivalents." The Institute previously submitted a letter to the Internal Revenue Service and Treasury Department recommending that FASIT regulations to be issued clarify that the term "cash and cash equivalents" includes shares of a money market fund.<sup>1</sup> The Treasury Department recently issued the attached proposed regulations (Prop. Treas. Reg. 1.860H-1 through 1.860L-4) relating to FASITs. These regulations adopt the Institute's recommendation and define the term "cash and cash equivalents" to include shares in a US dollar- denominated money market fund.<sup>2</sup> The preamble to the proposed regulations explains that, "[a]lthough such shares are technically stock, money market mutual funds are practical investments for cash balances pending either distribution to [FASIT] regular interest holders or reinvestment in new debt instruments." For this reason, the Internal Revenue Service and Treasury believe that it is appropriate to allow FASITs to hold these investments. The FASIT regulations generally are proposed to be effective on the date they are issued as final regulations. The Internal Revenue Service has requested written comments on the proposed FASIT regulations by May 8, 2000. A public hearing on the regulations has been scheduled for May 15, 2000. Requests to speak at the hearing and written testimony outlines must be submitted by April 24, 2000. Deanna J. Flores Assistant Counsel Attachment