

COMMENT LETTER

September 25, 2006

Institute Comment Letter on IRS Form 8888 (pdf)

September 25, 2006 Mr. W. Thomas Reeder Benefits Tax Counsel Office of Tax Policy Department of the Treasury 1500 Pennsylvania Avenue NW Washington, D.C. 20220 Ms. Dianne Grant Senior Advisor to the Deputy Commissioner Internal Revenue Service 1111 Constitution Ave. N.W. Washington, DC 20224 Re: Form 8888 The Investment Company Institute appreciates the opportunity to comment on draft Form 8888. Our comments supplement the letter the Institute submitted on August 25, 2006 regarding the split refund project. In that letter we made a number of suggestions regarding the project, which will allow taxpayers to split the direct deposit of their federal tax refunds into up to three financial accounts. Our comments on draft Form 8888 reiterate several points made in our August 25 letter and present new suggestions based on a review of the draft Form 8888 and Instructions. Contacting the Financial Institution For the split refund program to work successfully, taxpayers must provide correct routing and account numbers. In the Institute's view, the best way to assure this is to strongly encourage taxpayers to verify this information with their financial institution before submitting their tax return. The draft form contains a "TIP" stating the IRS is not responsible for a lost refund and stating the taxpayer "can check with your financial institution to get the correct routing and account numbers and make sure your deposit will be accepted." The Instructions also include a "Caution" that alerts a taxpayer to contact his or her financial institution for the correct routing number to enter if the taxpayer's check states it is payable through a financial institution different from the one in which the taxpayer has an account. Mr. W. Thomas Reeder Ms. Dianne Grant Page 2 of 3 September 25, 2006 2 While these statements are helpful, we believe the Instructions should more clearly direct the taxpayer to contact his or her financial institution. We recommend that the "TIP" be revised to state that the taxpayer should contact his or her financial institution to verify the routing and account number. Checking/Saving Boxes The Form asks taxpayers to indicate whether the account is a checking or savings account. The Instructions inform taxpayers to check the "Savings" box if the deposit is to an IRA, HSA, or similar account. We think this may address our concerns regarding confusion on the part of taxpayers, but we believe that the IRS should still consider deleting the boxes for Checking or Savings. Ordering of Refund Changes In the section of the Instructions governing math errors or refund offsets, we recommend that the Instructions make clear that taxpayers who want to avoid having their IRA contribution changed should include IRA contributions in Line 1 (and Line 2 for a spouse's IRA) to help ensure that the IRA contribution is the last deposit that would be reduced or increased as a result of a taxpayer error or offset. As we emphasized in our prior letter, we urge IRS and FMS to use the same method for altering refunds in the event of math errors or offsets. The rules for offset by FMS described in the Instructions, which are based on the sequence of

the routing numbers, do not provide the taxpayer any flexibility because routing numbers are not in the taxpayer's control. IRA Contributions We found the discussion of IRA contributions on page 2 of the Instructions to be generally helpful. We also believe the reference to Publication 590 will be useful. We believe, however, that more can be done to assist taxpayers in avoiding excess contributions. Publication 590, for example, does not address all of the savings vehicles that have contribution limits, such as Health Savings Accounts and Coverdell ESAs. To prevent accidental excess contributions to IRAs and similar accounts, the IRS should consider providing on Form 8888 itself a brief summary of the prior and current year contribution limits for these saving vehicles. The Form and Instructions also should provide more practical guidance to taxpayers seeking to make a prior year contribution (for the year of the return being filed.) The draft Instructions state: "If you designate your deposit to be for 2006, you must verify that the deposit was actually made to the account by the due date of the return (without regard to extensions)." We recommend that the Mr. W. Thomas Reeder Ms. Dianne Grant Page 3 of 3 September 25, 2006 3 Instructions to Form 8888 more clearly apprise taxpayers that if the refund is being used to fund an IRA contribution for the prior year, the tax return must be filed early enough to ensure that the refund is received by the financial institution by the due date for the return (without regard to extensions). In addition, the instructions should provide some guidance on how long it typically takes for a refund to be processed, even if the IRS needs to make clear that the actual processing time may vary. Without some guidance, a taxpayer will have no idea by what date he or she should file so that it will be reasonably likely the refund will be transmitted to the IRA on time. * * * The Institute appreciates the opportunity to comment on Form 8888. Please feel free to contact the undersigned at 202 326 5810 (mhadley@ici.org) or Mary Podesta at 202 326 5826 (podesta@ici.org) with any questions. Sincerely, /s/ Michael L. Hadley Michael L. Hadley Assistant Counsel—Pension Regulation cc: Sue Sottile (Director – Tax Forms & Publications)