INVESTMENT COMPANY INSTITUTE

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By Electronic Delivery

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Michael Mundaca
Acting Assistant Secretary (Tax Policy)
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

William J. Wilkins
Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Request for Two-Year Extension of Rev. Proc. 2009-15 for RIC Elective Stock Dividends

Dear Messrs. Mundaca and Wilkins:

The Investment Company Institute,[1] on behalf of its members and their shareholders, requests that the Treasury Department and Internal Revenue Service ("IRS") extend for two years the guidance provided in Revenue Procedure 2009-15, which temporarily permits RICs and REITs to pay elective stock dividends if certain conditions are satisfied. Rev. Proc. 2009-15 currently applies to distributions declared with respect to a taxable year ending on or before December 31, 2009.

The Revenue Procedure was welcome guidance to the RIC industry, particularly to business development companies ("BDCs") and closed-end funds.[2] In the current financial climate, many BDCs and closed-end funds have experienced liquidity issues that have impaired their ability to pay dividends as required under the Internal Revenue Code.[3] The guidance in Rev. Proc. 2009-15 provided much needed relief to those RICs facing such problems.

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[1] The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), unit investment trusts (UITs) and business development companies (BDCs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of $10.5 trillion and serve over 93 million shareholders.

[2] Rev. Proc. 2009-15 amplifies and supersedes Rev. Proc. 2008-68, which applied only to REITs. After the issuance of Rev. Proc. 2008-68, the Institute requested that the Treasury Department and IRS extend such guidance to RICs. *See* Institute Letter to Eric Solomon and Donald Korb, dated December 10, 2008. The government subsequently released Rev. Proc. 2009-15 in response to our request.

[3] Under section 852(a)(1) of the Code, all RICs, including BDCs and closed-end funds, must distribute at least 90 percent of their investment company taxable income annually to qualify as a RIC. Open-end funds have not experienced the same problems because a significant portion of their shareholders reinvest their dividends.

Unfortunately, the credit markets have not rebounded as quickly as everyone hoped, and many BDCs and closed-end funds continue to face liquidity issues. In the Institute's letter regarding our suggestions for the Treasury Department and IRS's 2009-2010 Guidance Priority List,[4] we asked that the guidance in Rev. Proc. 2009-15 be extended for one year. After further discussions with our members, we request that the guidance be extended for two years, thus applying to distributions declared with respect to a taxable year ending on or before December 31, 2011. We understand that the National Association of Real Estate Investment Trusts ("NAREIT") also has requested a two-year extension. A two-year extension would give these RICs time to continue efforts to conserve capital and build cash reserves. Thus, we urge the Treasury Department and the IRS to extend Rev. Proc. 2009-15 through 2011.

We appreciate the Treasury Department and IRS's prior assistance with this issue and respectfully request that the guidance be extended for two more years. If we can provide you with any additional information, please contact my colleague, Karen Gibian (202/371-5432 or kgibian@ici.org) or me (202/326-5832 or lawson@ici.org).

Sincerely,

/s/ Keith Lawson

Keith Lawson
Senior Counsel – Tax Law

cc: Joshua Odintz
Jeffrey Van Hove
Steven Frost
Michael Novey
William Alexander
Lee Kelly
Ian Russell
Stephen Larson
David Silber
Alice Bennett
Jonathan Silver
Susan Baker
Thomas Preston
Richard LaFalce

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[4] *See* Institute Letter to Michael Mundaca and Clarissa Potter, dated May 28, 2009.