

February 2006

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## Reporting Rules for Widely Held Fixed Investment Trusts Finalized

On January 24, 2006, the Treasury finalized Regulations that change the way widely held fixed investment trusts report trust income to the investors. If a trust meets certain safe-harbors, the Regulations may simplify the trust reporting requirements in some ways – though the simplification may not conform to historic industry practice. If the trust does not meet the safe harbors, the Regulations appear to require asset-by-asset reporting. The new rules provide detailed requirements in some areas but leave many questions left unanswered. The new rules are not effective until January 1, 2007, and certain simplified rules apply before January 1, 2011, to non-mortgage trusts in existence before February 23, 2006.

The Regulations expressly provide a mechanism for trustees to provide information to middlemen. However, although the preamble to the Regulations notes that there is currently no mechanism for communication of tax information in regard to redemptions and sales of interests between the trustee and middlemen, the Regulations appear to require trustees to provide and maintain information related to redemptions and sales of interests that the trustee may need to obtain from middlemen. The Regulations do not provide any mechanism for the trustees to obtain such information.

For purposes of the new Regulations, a widely held fixed investment trust is any domestic arrangement classified as a fixed investment trust and treated as a grantor trust if at least one interest in the trust is held by a person (a “middleman”) who holds the interest in the trust on behalf of another person or as an intermediary for the account of another person. Such middlemen include, but are not limited to, custodians, nominees, certain joint owners, and brokers. The breadth of the definitions of “middleman” and, thus, the definition of “widely held fixed investment trust,” may make the new rules applicable to a wide array of investments trusts.

### *General Reporting Requirements*

The new Regulations create reporting obligations to the certificate holders (including trust interest holders that are middlemen), and the trustee or middleman is obligated to provide information to the IRS. The manner of calculation of the items reported must conform to industry practice and enable a certificate holder to separately state any item that would result in a different tax liability from that which would result if not separately stated.

As to the certificate holders, the trustee is required to provide upon the request of a middleman or beneficial owner certain information about the trust; the items of income, expenses and credits of the trust; non pro-rata partial principal payments; asset sales and dispositions; redemptions and sales of interests; bond premium; market discount and other information necessary for interest holders to accurately report their income. Unless certain exceptions are met, the trustee must report

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asset sales and dispositions to the beneficiaries by providing (i) the date of each sale or disposition; (ii) information that enables a requesting person to determine the amount of trust sales proceeds attributable to a beneficial owner as a result of each sale or disposition; and (iii) information that enables a beneficial owner to allocate, with reasonable accuracy, a portion of the owner's basis in its trust interest to each sale or disposition. This information must generally be provided before the later of 30 days after the close of the calendar year or 14 days after the receipt of the request. The statement may be provided by mail, publication, posting at a website, by electronic mail or by another method agreed upon by the trustee and the requesting person. The trust must also identify a representative of the trust who will provide the required information.

The information required to be provided by the trustee in the previous paragraph is required to be maintained by the trustee for the life of the trust and five years following the termination date of the trust. In addition, the trustee is required to maintain supplemental data required to establish that this information is correct for a period of five years following the close of the calendar year to which the data pertains.

With respect to redemptions and sales of trust interests, generally, the trustee must report for each date information enabling the requesting person to determine (i) the redemption proceeds per trust interest on that date, (ii) the redemption (or sale) proceeds less the cash held for distribution with respect to the redeemed or sold trust interest on that date and (iii) the gross income that is attributable to the redeeming (or selling or purchasing) beneficial owner for the portion of the calendar year that the beneficial owner held its interest (including income earned by the trust after the date of the last income distribution). However, a special rule is provided for this requirement under which certain equity trusts need only provide for each relevant date information that will enable the requesting person to determine the redemption proceeds per trust interest. This special rule applies only if substantially all of the income of the trust consists of certain dividends and either (i) the trustee is required by the governing documents to distribute all cash at least monthly or (ii) in the case of calendar years before 2011, the trust has a start-up date that is before February 23, 2006. The Regulations do not contain any definition of "substantially all" for this purpose. Dividends for this purposes generally include dividends (including capital gains dividends) from regulated investment companies.

As to the IRS, in general, the trustee or middleman must file with the IRS the appropriate Forms 1099, reporting the gross income attributable to the certificate holder, non pro-rata partial principal payments, all trust sales proceeds, redemption assets proceeds, sales of trust interests on a secondary market, and any other information required by the Form 1099. No Form 1099 is required if the interest is held by an exempt recipient, which generally includes middlemen, other widely held fixed investment trusts and certain entities (such as most corporations). The trustee is required to file the form if the relevant interest is held directly by the beneficial owner. The middleman is required to file the form if a middleman holds the interest. Form 1099 must be filed on or before February 28 (March 31, if filed electronically) of the year following the year in respect of which the information is being provided.

An information statement is also required to be provided to the certificate holders including certain information about the trust; the identity of the person furnishing the statement; the items of income, expenses and credits of the trust; non pro-rata partial principal payments; asset sales and dispositions; redemption or sales of trust interests; information regarding market discount and bond premium and other information necessary for the certificate holder to report their income with

reasonable accuracy. The statement is required to be provided by March 15 of the year following the year in respect of which the information is being provided.

*Safe Harbors and De Minimis Exceptions*

Separate safe harbors are provided under the new Regulations for mortgage trusts and non-mortgage trusts. Mortgages, for these purposes, are obligations principally secured by an interest in real property. Mortgage trusts may also hold regular interests in a REMIC, interests in another mortgage trust, reasonably required reserve funds and certain other temporary items.

Under the safe harbor for mortgage trusts, a trustee is permitted to combine, for reporting purposes, amounts received as trust sales proceeds from the sale or disposition of some mortgages (including principal receipts that completely retire a mortgage) with non pro-rata partial principal payments from other mortgages. Thus, the safe harbor permits trustees and middlemen to report trust information as if the trust, in effect, held only one mortgage, and to report the aggregate of trust sales proceeds and non pro-rata partial principal payments as though the trustee had received a non pro-rata partial payment on that mortgage. Under the safe harbor, until certain original issue discount ("OID") Regulations are finalized, the trustee must also provide for each month during the calendar year, the aggregate daily accrual of OID per \$1,000 of aggregate outstanding principal balance as of the start-up date.

For a trust to qualify for the safe harbor for mortgage trusts, (i) the trust must make monthly distributions on the income and principal payments received by the trust, (ii) all interests in the trust must represent the right to receive an equal pro-rata share of both the income and principal payments received by the trust (for example, a trust that holds or issues interests that are treated as stripped interests will not qualify for the safe harbor), (iii) the trust must report using the safe harbor for the life of the trust (or, if the trust has a start-up date before January 1, 2007, the trust must begin using the safe harbor as of January 1, 2007, and for the remaining life of the trust), (iv) the trust must calculate all items subject to the safe harbor consistent with the safe harbor, (v) the assets of the trust must be limited to mortgages with uniform characteristics, reasonably required reserve funds, and amounts received on mortgages or reserve funds and held for distribution and (vi) the aggregate outstanding principal balance of all the mortgages held by the trust as of the start-up date must equal the aggregate of the original face amounts of all issued trust interests.

The safe harbor rules provide a multi-step approach for reporting items of income and expense. The first step requires the trustee to determine the total amount of trust distributions for the year. These trust distributions include not only the actual distributions, but also amounts reinvested and cash held for distribution at the end of the year, with certain reductions. The second step requires the trustee to determine the ratio of the gross amount of each item of income generated by the trust assets and expenses paid by the trust during the year to the trust distributions determined in step one. The third step requires the trustee to provide the amount of cash held for distribution per trust interest as of December 31 of the year and the amount per trust interest of reported distributions during the year that was included in the prior year's ending cash allocation.

With respect to redemptions of trust interests, the trustee must generally provide a list of the dates on which the amount of redemption proceeds paid for a trust interest were determined and the amount of the redemption asset proceeds (redemption proceeds less cash held for distribution) per trust interest on those dates and provide a requesting person whose trust interest was redeemed the redemption date and the amount of redemption asset proceeds per trust interest determined on that date. With respect to sales of trust interests, the trustee must generally provide, for each day

during the year (or, if it can determine the dates on which trust interest were sold in the secondary market, for each such date) the amount of cash held for distribution per trust interest. In the case of trusts substantially all of the income of which consists of certain dividends and either (i) the trustee is required by the governing documents to distribute all cash at least monthly or (ii) in the case of calendar years before 2011, the trust has a start-up date that is before February 23, 2006, the trustee can make the determinations with respect to redemptions by using gross redemption proceeds (rather than redemption asset proceeds) and the trustee need not provide the information with respect to sales of trust interests.

To qualify for the non-mortgage trust safe harbor, (i) substantially all of the trust's income must be from dividends or interest (not including exempt interest and interest on obligations of individuals) and (ii) all trust interests must have identical value and rights. If the safe harbor is used, the safe harbor must be used for all trust items subject to the safe harbor after the effective date of the Regulations.

The Regulations provide a lengthy example that illustrates the use of these safe harbor reporting rules for non-mortgage trusts. That example is attached as Appendix A to this memorandum.

The new Regulations provide a general de minimis exception and a special de minimis exception for mortgage trusts. A trust qualifies for the general de minimis exception if trust sales proceeds for the calendar year are not more than five percent of the aggregate fair market value of all assets held by the trust as of the later of January 1 of that year or the trust's start-up date. A trust qualifies for the special mortgage trust de minimis exception if trust sales proceeds are not more than five percent of the aggregate outstanding principal balance of the trust as of the later of January 1 of that year or the trust's start-up date.

If a mortgage trust qualifies for the general or special de minimis exception, the trustee is not required to report asset sales and dispositions under the general rules, but, instead, must provide sufficient information to enable a requesting person to determine the amount of trust sales proceeds attributable to a beneficial owner as a result of the sale or disposition.

If a non-mortgage trust qualifies for the general de minimis exception or under certain transition rules for years before January 1, 2011, the trust is not required to provide the detailed information on asset sales and dispositions, but, instead, is required to provide sufficient information to determine the amount of trust sales proceeds distributed to an investor during a year with respect to each sale or disposition of a trust asset. In addition, non-mortgage trusts qualifying for the de minimis exception or under the same transition rules are permitted under the non-mortgage safe harbor to report sales proceeds by providing a list of the dates on which trust sales were distributed and the amount of trust sales proceeds, per trust interest, that were distributed on that date.

#### *Other Issues*

The Regulations require widely held fixed investment trust information to be calculated and reported using the cash method unless another method is required by another provision of the Code or Regulations or the trustee knows or reasonably should know that the trust is marketed primarily to accrual method certificate holders.

Non-U.S. fixed investment trusts will still be subject to reporting rules under I.R.C. § 6048, which generally require investors file Forms 3520 and 3520A. The Treasury is intending to provide further guidance in the area of foreign trust reporting.

Nothing in this summary is intended to be tax advice to any particular taxpayer. To the extent this summary is interpreted as being tax advice, the U.S. Treasury requires the following disclosures: (i) any advice relating to federal income tax issues provided in this document was not intended or written to be used and cannot be used for the purpose of avoiding tax penalties; (ii) this summary is written to support the promotion of the transaction(s) or matter(s) addressed in the summary and (iii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

The Regulations provide the following example of the use of the safe harbor for NMWHFITs. As used in the example, a "NMWHFIT" is a non-mortgage widely held fixed investment trust and "TIH" is a trust interest holder

**(i) Facts.**

*(A) In general.*

(1) Trust is a NMWHFIT that holds common stock in ten different corporations and has 100 trust interests outstanding. The start-up date for Trust is December 15, 2006, and the termination date for Trust is March 15, 2008. The agreement governing Trust requires Trust to distribute the cash held by Trust reduced by accrued but unpaid expenses on April 15, July 15, and October 15 of the 2007 calendar year. The agreement also provides that the trust interests will be redeemed by the Trust for an amount equal to the value of the trust interest, as of the close of business, on the day that the trust interest is tendered for redemption. There is no reinvestment plan. A secondary market for interests in Trust will be created by Trust's sponsor and Trust's sponsor will provide Trustee with a list of dates on which sales occurred on this secondary market.

(2) As of December 31, 2006, Trust holds \$12x for distribution to TIHs on the next distribution date and has no accrued but unpaid expenses. Trustee includes the \$12x in determining the year-end cash allocation factor for December 31, 2006.

*(B) Events occurring during the 2007 calendar year.*

(1) As of January 1, 2007, Broker1 holds ten trust interests in Trust in street name for each of J and A and Broker2 holds ten trust interests in Trust in street name for S. J, A, and S; are individual, cash method taxpayers.

(2) As of January 1, 2007, the fair market value of the Trust's assets equals \$10,000x.

(3) During 2007, Trust receives \$588x in dividend income. Trustee determines that \$400x of the dividend income received during 2007 meets the definition of a qualified dividend in section 1(h)(11)(B)(i) and the holding period requirement in section 1(h)(11)(B)(iii) with respect to the Trust. During 2007, Trust also receives \$12x in interest income from investment of Trust's funds pending distribution to TIHs, and pays \$45x in expenses, all of which are affected expenses.

(4) On April 15, 2007, Trustee distributes \$135x, which includes the \$12x included in determining the year-end cash allocation factor for December 31, 2006. As a result of the distribution, Broker1 credits J's account and A's account for \$13.50x each. Broker2 credits S's account for \$13.50x.

(5) On June 1, 2007, Trustee sells shares of stock for \$1000x to preserve the soundness of the trust. The stock sold on June 1, 2007, equaled 20% of the aggregate fair market value of the assets held by Trust on the start-up date of Trust.

(6) On July 15, 2007, Trustee distributes \$1,135x, which includes the \$1,000x of trust sales proceeds received by Trust for the sale of assets on June 1, 2007. As a result of the distribution, Broker1 credits J's account and A's account for \$113.50x each. Broker 2 credits S's account for \$113.50x.

(7) On September 30 2007, J, through Trust's sponsor, sells a trust interest to S for \$115.35x. Trustee determines that the cash held for distribution per trust interest on September 30 is \$1.35x. As a result of the sale, Broker1 credits J's account for \$115.35x.

(8) On October 15, 2007, Trustee distributes \$123x. As a result of the distribution, Broker1 credits J's account for \$11.07x and A's account for \$12.30x. Broker2 credits S's account for \$13.53x.

(9) On December 10, 2007, J tenders a trust interest to Trustee for redemption through Broker1. Trustee determines that the amount of the redemption proceeds to be paid for a trust interest that is tendered for redemption on December 10, 2007, is \$116x, of which \$115x represents the redemption asset proceeds. On December 12, 2007, Trustee sells shares of common stock for \$115x to have sufficient cash to pay J's redemption proceeds. The stock sold on December 12, 2007, equaled 2% of the aggregate fair market value of all the assets of Trust as of the start up date. On December 17, 2007, Trustee pays the \$116x redemption proceeds (including the \$115x trust sales proceeds received by Trust for the sale of the stock on December 12) to Broker1 on J's behalf, and Broker1 in turn pays \$116x to J as redemption proceeds.

(10) On December 10, 2007, J, through Trust's sponsor, also sells a trust interest to S for \$116x. Trustee determines that the cash held for distribution per trust interest on that date is \$1x. As a result of the sale, Broker1 credits J's account for \$116x.

(11) As of December 31, 2007, Trust holds cash of \$173x and has incurred \$15x in expenses that Trust has not paid. J is the only TIH to redeem a trust interest during the calendar year. The sale of two trust interests in Trust by J to S are the only sales that occurred on the secondary market established by Trust's sponsor during 2007.

**(ii) Trustee reporting.**

(A) *Summary of information provided by Trustee.* Trustee meets the requirements of paragraph (f)(1) of this section if Trustee provides the following information to requesting persons:

(1) Income and expense information:

Factor for ordinary dividend income.....	0.3481
Factor for qualified dividend income.....	0.7407
Factor for interest income.....	0.0222
Factor for affected expenses.....	0.0833
Current year-end cash allocation factor....	1.5960
Prior year cash allocation factor.....	0.1200
Prior year cash distribution date.....	April 15

(2) Information regarding asset sales and distributions:

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Date of sale	Trust sales proceeds received	Trust sales proceeds distributed and date distributed	Percent of trust sold
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June 1.....	\$10.0000x.....	\$10.0000x (July 15).....	20
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December 12.....	1.1616x.....	0.0000x.....	2
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(3) Information regarding redemptions:

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Date	Redemption asset proceeds
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December 10.....	\$115x
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(4) Information regarding sales of trust interests

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Date	Cash held for distribution per trust interest
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September 30.....	\$1.35x
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December 10..... 1.00x

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(B) *Trustee determines this information as follows:*

(1) Step One: Trustee determines the total amount of NMWHFIT distributions for the calendar year. The total amount of NMWHFIT distributions (actual and deemed) for the calendar year for purposes of determining the safe harbor factors is \$540x. This amount consists of the amounts paid on each scheduled distribution date during the calendar year (\$1135x, \$135x, and \$123x), plus the total amount paid to J as a result of J's redemption of a trust interest (\$116x) (\$1,135x + \$135x + \$123x + \$116x = \$1,509x)—

(i) Increased by all cash held for distribution to TIHs as of December 31, 2007 (\$158x), which is the cash held as of December 31, 2007 (\$173x) reduced by the accrued but unpaid expenses as of December 31, 2007 (\$15x), and

(ii) Decreased by all amounts distributed during the calendar year but included in the year-end cash allocation factor from a prior year (\$12x); all redemption asset proceeds paid for the calendar year (\$115x); and all trust sales proceeds distributed during the calendar year (\$1,000x).

(2) Step Two: Trustee determines factors that express the ratio of NMWHFIT income (other than OID) and expenses to the total amount of NMWHFIT distributions. Trustee determines the factors for each item of income earned by Trust and each item of expense as follows:

(i) Ordinary dividend income factor. The ordinary dividend income factor is 0.3481, which represents the ratio of the gross amount of ordinary dividends (\$188x) to the total amount of NMWHFIT distributions for the calendar year (\$540x).

(ii) Qualified dividend income factor. The qualified dividend income factor is 0.7407 which represents the ratio of the gross amount of qualified dividend income (\$400x) to the total amount of NMWHFIT distributions for the calendar year (\$540x).

(iii) Interest income factor. The interest income factor is 0.0222, which represents the ratio of the gross amount of interest income (\$12x) to the total amount of NMWHFIT distributions for the calendar year (\$540x).

(iv) Expense factor. The affected expenses factor is 0.0833, which represents the ratio of the gross amount of affected expenses paid by Trust for the calendar year (\$45x) to the total amount of NMWHFIT distributions for the calendar year (\$540x).

(3) Step Three: Trustee determines adjustments for reconciling the total amount of NMWHFIT distributions with amounts paid to TIHs. To enable requesting persons to determine the total amount of NMWHFIT distributions that are attributable to a TIH based on amounts actually paid to the TIH, the trustee must provide both a current year-end cash allocation factor and a prior year cash allocation factor.

(i) Current year-end cash allocation factor. The adjustment factor for cash held by Trust at year end is 1.5960, which represents the cash held for distribution as of December 31, 2007 (\$158x) (the amount of cash held by Trust on December 31, 2007 (\$173x) reduced by accrued, but unpaid, expenses (\$15x)), divided by the number of trust interests outstanding at year-end (99).

(ii) Prior Year Cash Allocation Factor. The adjustment factor for distributions of year-end cash from the prior year is 0.1200, which represents the amount of the distribution during the current

calendar year that was included in a year-end cash allocation factor for a prior year (\$12x), divided by the number of trust interests outstanding at the time of the distribution (100). The prior year cash distribution date is April 15, 2007.

(4) Reporting sales and dispositions of trust assets. (i) Application of the de minimis test and the qualified NMWHFIT exception. The aggregate fair market value of the assets of Trust as of January 1, 2007, was \$10,000x. During the 2007 calendar year, Trust received trust sales proceeds of \$1115x. Trust sales proceeds received by Trust for the 2007 calendar year equal 11.15% of Trust's fair market value as of January 1, 2007. Accordingly, neither the de minimis test or the qualified NMWHFIT exception is met for the calendar year.

(ii) Information to be provided. To satisfy the requirements of paragraph (f)(1) of this section with respect to sales and dispositions of Trust's assets, Trustee provides a list of dates on which trust assets were sold during the calendar year, and provides, for each date: the trust sales proceeds (per trust interest) received on that date; the trust sales proceeds distributed to TIHs (per trust interest) with respect to sales or dispositions on that date; the date those trust sales proceeds were distributed, and the ratio of the assets sold or disposed of on that day to all the assets held by Trust. Because Trust will terminate within 15 months of its start-up date, Trustee must use the fair market value of the assets as of the start-up date to determine the portion of Trust sold or disposed of on any particular date.

(5) Reporting redemptions. Because Trust is not required to make distributions at least as frequently as monthly, and Trust's start-up date is after February 23, 2006, the exception in paragraph (c)(2)(v)(C) of this section does not apply to Trust. To satisfy the requirements of paragraph (f)(1) of this section, Trustee provides a list of dates for which the redemption proceeds to be paid for the redemption of a trust interest was determined for the 2007 calendar year and the redemption assets proceeds paid for each date. During 2007, Trustee only determined the amount of redemption proceeds to be paid for the redemption of a trust interest once, for December 10, 2007, and the redemption asset proceeds determined for that date was \$115x.

(6) Reporting sales of trust interest. Because Trust is not required to make distributions at least as frequently as monthly, and Trust's start up date is after February 23, 2006, the exception in paragraph (c)(2)(v)(C) of this section does not apply to Trust. Sponsor, in accordance with the trust agreement, provides Trustee with a list of dates on which sales on the secondary market occurred. To satisfy the requirements of paragraph (f)(1) of this section, Trustee provides requesting persons with a list of dates on which sales on the secondary market occurred and the amount of cash held for distribution per trust interest on each date. During 2007, two sales occurred on the secondary market. The first sale occurred on September 30, 2007, and the amount of cash held for distribution, per trust interest, on that date is \$1.35x. The second sale occurred on December 10, 2007, and the amount of cash held for distribution, per trust interest, on that date is \$1.00x.

**(iii) Brokers' use of information provided by Trustee.** (A) *Broker1 and Broker2 use the information furnished by Trustee under the safe harbor to determine that the following items are attributable to J, A, and S—*

With respect to J

Ordinary Dividend Income	\$17.89x
Qualified Dividend Income	38.07x

Interest Income	1.14x	
Affected Expenses	4.28x	
Trust sales proceeds reported on Form 1099	108.13x	
Redemption asset proceeds		
For redemption on December 10	115.00x	
Sale asset proceeds		
For sale on September 30	114.00x	
For sale on December 10	115.00x	
With respect to A		
Ordinary Dividend Income	18.82x	
Qualified Dividend Income	40.04x	
Interest Income	1.20x	
Affected Expenses	4.50x	
Trust sales proceeds reported on Form 1099	11.62x	
With respect to S		
Ordinary Dividend Income	19.54x	
Qualified Dividend Income	41.58x	
Interest Income	1.25x	
Affected Expenses	4.68x	
Trust sales proceeds reported on Form 1099	113.94x	
With respect to J, A, and S (regarding the sales and dispositions executed by Trust during the calendar year)		
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	Trust sales proceeds	
Date	received per trust	Percent of
	interest	trust sold
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June 15	\$10.0000x	20
December 12	1.1616x	2
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(B) The brokers determine the information provided to J, A, and S as follows--

(1) Step One: Brokers determine the total amount of NMWHFIT distributions attributable to J, A, and S. Broker1 determines that the total amount of NMWHFIT distributions attributable to J is \$51.39x and the total amount of NMWHFIT distributions attributable to A is \$54.06x. Broker2 determines that the total amount of NMWHFIT distributions attributable to S is \$56.13x.

(i) To calculate these amounts the brokers begin by determining the total amount paid to J, A, and S for the calendar year—

(A) The total amount paid to J for the calendar year equals \$485.42x and includes the April 15, 2007, distribution of \$13.50x, the July 15, 2007, distribution of \$113.50x, the sales proceeds for the September 30, 2007, sale of \$115.35x, the October 15, 2007, distribution of \$11.07x, and the redemption proceeds of \$116x and sales proceeds of \$116x for the redemption and sale on December 10, 2007.

(B) The total amount paid to A for the calendar year equals \$139.30x and includes the April 15, 2007, distribution of \$13.50x, the July 15, 2007, distribution of \$113.50x and the October 15, 2007, distribution of \$12.30x.

(C) The total amount paid to S for the calendar year equals \$140.53x and includes the April 15, 2007, distribution of \$13.50x, the July 15, 2007, distribution of \$113.50x and the October 15, 2007, distribution of \$13.53x.

(ii) The brokers increase the total amount paid to J, A, and S by an amount equal to the current year-end cash allocation factor (1.5960) multiplied by the number of trust interests held by J (7), A (10), and S (12) as of December 31, 2007; that is for J, \$11.17x; for A, \$15.96x; and for S, \$19.15x.

(iii) The brokers reduce the amount paid to J, A, and S as follows—

(A) An amount equal to the prior year cash allocation factor (0.1200), multiplied by the number of trust interests held by J (10), A (10), and S (10) on the date of the prior year cash distribution; that is for J, A, and S, \$1.20x, each;

(B) An amount equal to all redemption asset proceeds paid to a TIH for the calendar year; that is, for J, \$115x;

(C) An amount equal to all sales asset proceeds attributable to the TIH for the calendar year; that is for J, \$229x (for the September 30, 2007, sale: \$115.35x-1.35x (cash held for distribution per trust interest on that date)-\$114x; and for the December 10, 2007, sale: \$116x-1.00 (cash held for distribution per trust interest on that date)=\$115x));

(D) In the case of a purchasing TIH, an amount equal to the amount of cash held for distribution per trust interest at the time the TIH purchased its trust interest, multiplied by the number of trust interests purchased; that is for S, \$2.35x (\$1.35x with respect to the September 30, 2007, sale and \$1x with respect to the December 10, 2007, sale);

(E) All amounts of trust sales proceeds distributed to the TIH for the calendar year; that is for J, A, and S, \$100. (\$100 each, with respect to the June 15, 2007, sale of assets by Trust, and \$0 each, with respect to the December 12, 2007, sale of assets by Trust).

(2) Step two: The brokers apply the factors provided by Trustee to determine the Trust's income and expenses that are attributable to J, A, and S. The amounts of each item of income (other than OID) and expense that are attributable to J, A, and S are determined by multiplying the factor for

that type of income or expense by the total amount of NMWHFIT distributions attributable to J, A, and S as follows:

(i) Application of factor for ordinary dividends. The amount of ordinary dividend income attributable to J is \$17.89x, to A is \$18.82x, and to S is \$19.54x. The brokers determine these amounts by multiplying the total amount of NMWHFIT distributions attributable to J, A, and S (\$51.39x, \$54.06x, and \$56.13x, respectively) by the factor for ordinary dividends (0.3481).

(ii) Application of factor for qualified dividend income. The amount of qualified dividend income attributable to J is \$38.07x, to A is \$40.04x, and to S is \$41.58x. The brokers determine these amounts by multiplying the total amount of NMWHFIT distributions attributable to J, A, and S (\$51.39x, \$54.06x, and \$56.13x, respectively) by the factor for qualified dividends (0.7407).

(iii) Application of factor for interest income. The amount of interest income attributable to J is \$1.14x, to A is \$1.20x, and to S is \$1.25x. The brokers determine these amounts by multiplying the total amount of NMWHFIT distributions attributable to J, A, and S (\$51.39x, \$54.06x, and \$56.13x, respectively) by the factor for interest (0.0222).

(iv) Application of factor for affected expenses. The amount of affected expenses attributable to J is \$4.28x, to A is \$4.50x, and to S is \$4.68x. The brokers determine these amounts by multiplying the total amount of NMWHFIT distributions attributable to J, A, and S (\$51.39x, \$54.06x, and \$56.13x, respectively) by the factor for affected expenses (0.0833).

(3) Brokers reporting of sales and dispositions of trust assets—(i) Determining the amount of trust sales proceeds to be reported on Form 1099 for J, A, and S. The amount of trust sales proceeds to be reported on Form 1099 with respect to J is \$108.13x, to A is \$111.62x, and to S is \$113.94x. To determine these amounts, the brokers aggregate the amount of trust sales proceeds attributable to J, A, and S for each date on which Trust sold or disposed of assets. The brokers determine the amount of trust sales proceeds to be reported with respect to the June 15, 2007, asset sale by multiplying the number of trust interests held by J (10), A (10) and S (10) on that date by the trust sales proceeds received per trust interest on that date (\$10x). The brokers determine the amount of trust sales proceeds to be reported with respect to the December 12, 2007, asset sale by multiplying the number of trust interests held by J (7), A (10) and S (12) on that date by the trust sales proceeds received per trust interest on that date (\$1.1616x).

(ii) Information provided on the tax information statements furnished to J, A, and S. The tax information statements furnished to J, A, and S must include the dates of each sale or disposition (June 15, 2007, and December 12, 2007); the amount of trust sales proceeds per trust interest received on those dates (\$10.00x and \$1.1616x, respectively); and, the percentage of Trust sold or disposed of on that date (20% and 2%, respectively).

(4) Reporting redemptions. Broker1 reports on Form 1099 and on the written tax information statement furnished to J that J received \$115x in redemption asset proceeds for the calendar year.

(5) Reporting sales of trust interests on the secondary market. Broker1 reports on J's two sales of trust interests. With respect to the sale on September 30, 2007, the sale asset proceeds equals \$114x (\$115.35x sale proceeds—\$1.35x cash held for distribution on that date) and with respect to the sale on December 10, 2007, the sale asset proceeds equal \$115x (\$116x sale proceeds—\$1x cash held for distribution on that date). Broker1 reports these amounts on Form 1099 and on the tax information statement furnished to J.

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