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Letter Ruling 79-9: Unit Investment Trust

May 22, 1979

Dear Sir:

Your letter of April 26, 1979 requests certain rulings with respect to the taxation of ***** Municipal Bond Trust ***** ("Trust").

The Trust is to be created by an agreement between [a broker] as sponsor and [a] Trust Company as Trustee.

The Sponsor is a Delaware corporation having its principal office in New York City and a sales office in Boston. Sponsor is registered to do business in the Commonwealth as a foreign corporation. The Trustee is a New York corporation with its principal place of business in New York City. The Trust Agreement will be executed and delivered in New York and by its terms is to be governed by New York law. All the business of the Trust will be conducted in New York, its assets will be located in New York, and its distributions to certificateholders will be made from New York. The Trust will have no office in Massachusetts.

The Trust consists of five underlying separate unit investment trusts, designated respectively as the California Trust 1, Massachusetts Trust 1, Minnesota Trust 1, New York Trust 1 and Pennsylvania Trust 1. The five Trusts are combined under one Trust instrument. The Massachusetts Trust 1 will be comprised of a fixed portfolio of interest-bearing obligations issued by governmental entities located in Massachusetts and Puerto Rico, all of which interest will, in the opinion of Bond Counsel, be exempt under existing law from both Federal and Massachusetts income taxes. Each of the five trusts will be administered as a distinct entity with separate certificates, expenses, books and records. Units in Massachusetts Trust 1 will be offered and sold in Massachusetts by the Sponsor or by brokers and dealers, separate from the other Trusts. Each unit of the Massachusetts Trust will represent an undivided interest in the principal and net income of Massachusetts Trust 1. Distribution of interest received by Massachusetts Trust 1 will be made to the holders of units of said Trust at specified intervals. Proceeds of portfolio bonds of Massachusetts Trust 1 sold or matured will not be invested but will be distributed to Massachusetts certificateholders. Units of Massachusetts Trust 1 are redeemable at the option of the certificateholders. Units offered for redemption may be purchased by the Sponsor and resold to the public or tendered for redemption.

Neither the Sponsor nor the Trustee will have authority to alter the Massachusetts Trust 1 portfolio by way of additions. The Sponsor may direct the Trustee to sell or liquidate any of the bonds in the event of default and other adverse contingencies and to provide for substitution of certain refunding

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securities for the bonds. The Massachusetts Trust 1 Agreement may be amended by the Sponsor and Trustee without the consent of the shareholders only to cure any ambiguity or to correct or supplement any provision thereof which may be defective or inconsistent or to make such other provisions as will not adversely affect the interest of the Certificateholders. Massachusetts Trust 1 will terminate on the date of maturity, redemption, sale or other disposition of the last of the bonds held in trust but in no event later than January first of the fiftieth year following the date of deposit. The Trust may be terminated (i) by the written consent of 100% of the certificateholders, or (ii) by the Trustee upon the resignation or removal of the Sponsor or if the value of the Trust as shown by evaluation is less than twenty per cent (20%) of the par value of the bonds originally deposited.

In the opinion of counsel for the Sponsor, the Massachusetts Trust 1 is not an association taxable as a corporation for Federal income tax purposes; each holder of a certificate of ownership will be treated as the owner of a pro rata portion thereof under the Internal Revenue Code of 1954, as amended ("the Code"), and the income of the Trust will be treated as income of the certificateholders. Interest on the bonds which is exempt from Federal Income tax when received by the Trust will retain its tax-exempt status when distributed to Certificateholders except possibly in the case of a certificateholder who is a person referred to in Section 103(b) of the Code.

Based on the foregoing, it is ruled:

1. For Massachusetts income tax purposes, the Massachusetts Trust 1 will be treated as a corporate trust under Section 8 of Chapter 62 of the Massachusetts General Laws and not as a grantor trust under Section 10 (e) of chapter 62 of the General Laws.
2. The proposed activities of the Massachusetts Trust 1 do not constitute doing business in Massachusetts within the meaning of Section 8 of Chapter 62 of the General Laws and the interest received by the Massachusetts Trust 1 from Massachusetts and Puerto Rican municipal bonds is not subject to taxation under Chapter 62 and therefore the Massachusetts Trust 1 will not be subject to Massachusetts income taxation under Chapter 62.
3. Certificateholders who are subject to Massachusetts income taxation under General Laws Chapter 62 will not be required to include their share of the earnings of or distributions from the Massachusetts Trust 1 in their Massachusetts gross income to the extent that such earnings or distributions represent tax-exempt interest for Federal income tax purposes received by the Massachusetts Trust 1 on obligations issued by Massachusetts, its counties, municipalities, authorities, political subdivisions or instrumentalities or the government of Puerto Rico or by its authority.
4. The Massachusetts Trust 1 capital gains and capital losses will be included as capital gains and losses in the Massachusetts gross income of Certificateholders who are subject to Massachusetts income taxation under General Laws Chapter 62, except where capital gain is specifically exempted from income taxation under the Act authorizing issuance of said obligations.
5. Gains and losses realized upon sale or redemption of Units by Certificateholders who are subject to Massachusetts income taxation under General Laws Chapter 62 will be includable in their Massachusetts gross incomes.

Nothing in this ruling is to be construed as exempting the Sponsor, underwriters, or broker-dealers who may be doing business in the Commonwealth from Massachusetts taxes.

Very truly yours,

/s/L. Joyce Hampers

L. Joyce Hampers
Commissioner of Revenue

LJH:JJW:dc

LR 79-9

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