

MEMO# 27449

August 8, 2013

Draft Letter to Treasury Regarding Money Market Reform Tax Issues -- Comments Requested

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TO: TAX COMMITTEE No. 21-13 RE: DRAFT LETTER TO TREASURY REGARDING MONEY
MARKET REFORM TAX ISSUES -- COMMENTS REQUESTED

Attached for your review is a draft letter to the Treasury Department regarding tax issues arising from the proposals by the Securities and Exchange Commission ("SEC") for reforming money market funds. [1] The Institute recently met with attorneys from the Treasury Department to discuss solutions for resolving these issues, and the draft letter reiterates the alternatives that we proposed.

Specifically, the letter addresses tax issues arising from the proposal to require money market funds to impose liquidity fees in certain times of stress. As discussed in the SEC's proposals, situations could arise in which a money market fund has to distribute excess liquidity fees to avoid breaking \$1.00. If the fund does not have sufficient earnings and profits to support that distribution, it would constitute a return of capital. The Institute suggested two alternatives for resolving this issue. First, the Treasury Department and Internal Revenue Service ("IRS") could deem the fund to have sufficient earnings and profits to distribute any excess liquidity fees, thereby creating an ordinary distribution and avoiding a return of capital. Alternatively, the Treasury Department and IRS could treat the liquidity fees as capital gain to the fund when received, under the Arrowsmith doctrine; any excess fees paid to shareholders thus would constitute a capital gain distribution.

Please provide any comments on the draft letter to me (kgibian@ici.org or 202/371-5432) no later than Thursday, August 15, 2013. The Institute plans to submit a separate letter on the recent guidance proposing a de minimis exception to the wash sale rule for money market funds. [2] We will circulate that draft letter for comments soon.

Karen Lau Gibian
Associate Counsel

[Attachment](#)

endnotes

[1] See Institute [Memorandum](#) (27287) dated June 10, 2013.

[2] See Institute [Memorandum](#) (27356) dated July 5, 2013.

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