MEMO# 31075

February 6, 2018

Indian Long Term Capital Gains Tax Proposal

[31075]

February 6, 2018 TO: ICI Members
ICI Global Members
ICI Global Tax Committee
Tax Committee SUBJECTS: International/Global
Tax RE: Indian Long Term Capital Gains Tax Proposal

On 4 February, 2018, India's Central Board of Direct Taxes, issued the attached FAQs relating to a proposed new taxation regime that imposes a 10% long term capital gain tax on non-resident taxpayers (including financial institutional investors (FIIs)). The tax applies to the transfer of long-term capital assets exceeding one lakh rupees (approximately $1,562USD).

The FAQs clarify the following:

- *Capital Assets*. Long-term capital assets include listed equity shares, units of an equity oriented fund, and units of business trusts that are held for a minimum of 12 months.
- *Basis step-up*. The cost of acquisition for assets equals the higher of (a) the actual cost or (b) the lower of (i) the FMV of the asset as of 31 January 2018 or (ii) the consideration upon transfer of the asset.
- *Withholding*. There will be no deduction at source from payment of long-term capital gains to a FII.

Clarification is still needed on whether FIIs will be required to file tax returns and be able to offset their gains with losses on other Indian capital assets.

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Attachment