

MEMO# 30453

December 5, 2016

Submission to Australia on CIV Non-Resident Withholding Tax Consultation

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TO: ICI Members

ICI Global Members SUBJECTS: International/GlobalTax RE: Submission to Australia on CIV Non-Resident Withholding Tax Consultation

ICI Global provided the attached response to the Australian Government's consultation paper entitled "Collective investment vehicle non-resident withholding taxes."[\[1\]](#) This consultation is part of the Australian Government's ongoing discussion with industry regarding steps necessary for successful implementation of the Asia Region Funds Passport (ARFP).[\[2\]](#)

The consultation paper asked several questions regarding Australia's taxation regime for non-resident investors in Australian securities and Australian funds. We responded specifically to these questions:

- Question 1: To what extent do you expect growth in funds and the funds management sector to come from increased investments by non-residents in (1) foreign assets (conduit investments) and (2) Australian assets?
- Question 4: To what extent would any reduction in Australian withholding tax rates be clawed back by higher foreign taxes (through reduced foreign tax credits)? Please provide examples in other jurisdictions.

The paper also requested comments on three proposals (the first of which was to make no change to existing rules). Under the paper's "Proposal B," Australian funds that comply with the ARFP requirements would impose on their non-resident investors a favorable five percent withholding tax on payments subject to Australian withholding tax; no tax would be imposed on other amounts (such as "franked dividends" and certain interest payments) that are exempt from non-resident withholding tax. Proposal C would impose the same five percent rate on payments made by all Australian funds.

After answering the questions applicable to globally-distributed funds, we proposed that any withholding tax simplifications and concessions be available equally to all funds rather than limited to Australian funds. Our proposal is consistent with "tax neutrality" comments that we submitted on the 2014 ARFP consultation paper (also attached). Specifically, we focused on the need for a level playing field between resident and non-resident funds and

comparable source-country tax treatment for non-resident investors whether they invest directly or through a fund (regardless of whether the fund is located in the source country). This uniform treatment, we observed, will maximize inbound investment and conform to the ARFP's objective of developing a more unified investment market within the Asia-Pacific region.

Keith Lawson
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[Attachment No. 1](#)

[Attachment No. 2](#)

endnotes

[1]

<http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2016/CIV-non-resident-withholding-taxes>.

[2] <https://www.iciglobal.org/iciglobal/pubs/memos/memo28087>. See also <http://fundspassport.apec.org/files/2014/04/20140411-Consultation-Paper-on-the-Passport-Arrangements-FINAL.pdf>.

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