

**MEMO# 31101**

February 21, 2018

## **ICI Letter on Hawaiian REIT Tax Proposal**

[31101]

February 21, 2018 TO: ICI Members

Tax Committee SUBJECTS: Tax RE: ICI Letter on Hawaiian REIT Tax Proposal

The ICI submitted the attached letter opposing a Hawaiian proposal to require that real estate investment trusts (REITs) file returns reporting their shareholders' pro rata shares of net income and net income attributable to Hawaii. The legislation provides for composite returns and requires withholding for those shareholders who do not agree to file returns or pay tax on their pro rata share of net income attributable to Hawaii.

The proposal, as explained in the letter, is not administrable and would lead to over-withholding and potential double taxation on mutual fund shareholders. Specifically, this is because:

- REITs do not have access to the shareholder information needed to comply with the proposal's report requirement, withholding on distributions to shareholders would be required.
- REITs cannot calculate precisely—at the time each distribution is made—the portion attributable to income, gain, or return of capital, REITs can be expected to withhold on the entire amount of their distributions.
- Mutual funds are not permitted by the Internal Revenue Code to “pass through” to their shareholders any state taxes paid by the funds, fund shareholders would not be able to claim a credit against their own state tax liability for any taxes paid by the funds to Hawaii.

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[Attachment](#)