

**MEMO# 31116**

March 5, 2018

# **For Your Review -- Draft Letter to Swiss Government Proposing Procedures by Which US Funds Establish Treaty Eligibility**

[31116]

March 5, 2018 TO: ICI Global Tax Committee

Tax Committee RE: For Your Review -- Draft Letter to Swiss Government Proposing Procedures by Which US Funds Establish Treaty Eligibility

ICI Global has been engaged with the Swiss Ministry of Finance to ensure that US funds taxed as regulated investment companies (RICs) receive Swiss withholding tax relief as provided by the Switzerland-US income tax convention. This engagement led to the Swiss government last September announcing additional types of proof that they will accept for establishing the percentage of RIC shares held by US persons.[\[1\]](#)

The attached DRAFT submission—**for your review**—follows up on suggestions that we made during a recent meeting with Swiss government officials for additional methods of establishing the percentage of shares held by US persons. One proposal would allow for certain investor information provided by intermediaries to be treated comparably to investor information provided by a proxy solicitation firm; this intermediary-generated investor information, like proxy-solicitation-firm-provided information, would be treated as being held “directly” by the fund for purposes of the procedures agreed in 2001.[\[2\]](#) A second proposal would allow RICs to treat certain share classes held by nominees as being held “directly” by the fund. “Direct” holdings are important because Switzerland will provide full treaty relief so long as at least 50 percent of a RIC’s shares are held directly and at least 95 percent of those shares are held by US persons.

The draft submission also includes a draft model letter that a RIC could use to supplement a tax reclaim filing and explain how it determined the US tax residence of its investors. The draft model letter sets forth numerous non-exclusive options that RICs could use to treat shares that are held indirectly as being held “directly.”

Please review the submission—and most particularly the draft model letter—and provide us input on whether the proposals, if adopted, would improve the ability of your RICs to receive full treaty relief. We would be pleased to add your suggestions for expanding the options by which a RIC can establish that its shares are held by US persons. Additional

support for why the Swiss should agree that classes of indirectly-held shares should be treated as held by US persons also will be welcome.

We request that all comments be provided to Katie Sunderland (at [katie.sunderland@ici.org](mailto:katie.sunderland@ici.org) or 202-326-5826) or to the undersigned (at [lawson@ici.org](mailto:lawson@ici.org) or 202-326-5832) **by March 12**. Thank you.

Keith Lawson  
Deputy General Counsel - Tax Law

[Attachment No. 1](#)

[Attachment No. 2](#)

**endnotes**

[1] See Institute [Memorandum No. 30865](#), dated September 7, 2017.

[2] See Institute [Memorandum No. 13720](#), dated July 12, 2001.

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