MEMO# 32228

February 21, 2020

For Your Review: ICI Global Letter Re Indian 2020 Budget Tax Issues

[32228]

February 21, 2020 TO: ICI Global Tax Committee
Management Company Tax Subcommittee
Tax Committee RE: For Your Review: ICI Global Letter Re Indian 2020 Budget Tax Issues

The Government of India’s 2020 Union Budget[1] includes a proposal to abolish the Dividend Distribution Tax (DDT) mechanism. This proposal — to tax investors directly on dividends received rather than impose a distribution tax on the dividend-paying Indian company — is consistent with international standards. Importantly, this change would enable foreign portfolio investors (FPIs), including collective investment vehicles (CIVs), to receive treaty-provided tax reductions and claim foreign tax credits against home country tax liabilities.

The attached draft letter recommends changes to the Union Budget to address tax issues that may impact CIVs’ investment decisions. Specifically, ICI Global recommends that:

1. dividends should not be subject to the enhanced surcharge tax that was rolled back on capital gains last year;[2]
2. any withholding should be at an applicable treaty rate, preferably at-source rather than reclaim;
3. changes are necessary to streamline the indirect transfer provisions with SEBI (FPI) regulations; and
4. dividends paid to Indian REITs should not be subject to double taxation (both in the hands of the REIT and again when the REIT pays out its income as dividends to the shareholders).

Please provide any comments to the attached draft letter to me at katie.sunderland@ici.org or 202-326-5826 by **close of business on Tuesday, February 25, 2020**. In particular, please provide feedback on the importance of item number four to CIVs.

Katie Sunderland
Assistant General Counsel

Attachment

endnotes

[1] An ICI and ICI Global member call was held on February 11, 2020 to discuss the Indian Union Budget 2020. Presentation materials can be found here: https://www.ici.org/pdf/32204a.pdf

[2] *See* Institute Memorandum No. 32100, dated December 13, 2019.