

MEMO# 28539

November 24, 2014

OECD Releases Discussion Draft on Preventing Treaty Abuse

[28539]

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TO:

TAX COMMITTEE No. 39-14
ICI GLOBAL TAX COMMITTEE No. 20-14

RE:

OECD RELEASES DISCUSSION DRAFT ON PREVENTING TREATY ABUSE

The Organisation for Economic Co-operation and Development (OECD) has released for public comment a draft document entitled "Follow Up Work on BEPS Action 6: Preventing Treaty Abuse." [1] This November 2014 discussion draft requests additional input on several issues that were included in the BEPS Action 6 report that was delivered to the G-20 Finance Ministers in September 2014 (the "2014 Deliverable"). [2]

ICI and ICI Global intend to comment on those aspects of the November 2014 discussion draft of interest to widely-held, publicly-offered collective investment vehicles (CIVs). These comments will supplement the comments that we made in April on the first draft of the BEPS Action 6 2014 Deliverable. [3]

Of particular interest to CIVs, the OECD asks for additional input on whether recommendations made by the OECD in a report on CIV treaty eligibility issued in April 2010 (the "2010 Report") [4] continue to be adequate and whether any improvements should be made to the conclusions in the 2010 Report. Among other things, the November 2014 discussion draft asks whether a single preferred approach for CIV treaty eligibility should be provided. Other issues of interest include treaty eligibility for pension funds, alternative limitation on benefits provisions for European Union countries, treaty relief under a "derivative benefits provision," and issues arising from a "principal purpose" requirement for treaty relief.

Please provide any comments on the November 2014 discussion draft to Keith Lawson (at lawson@ici.org or 202-326-5832) and Ryan Lovin (at ryan.lovin@ici.org or 202-326-5826)

by Friday, 12 December 2014. A draft comment letter will be circulated for your review in advance of a conference call that will be held on Monday, 5 January 2014.

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endnotes

[1] The OECD's November 2014 discussion draft is available at: <http://www.oecd.org/ctp/treaties/discussion-draft-action-6-follow-up-prevent-treaty-abuse.pdf>.

[2] The OECD's 2014 Deliverable on BEPS Action 6 is available at: <http://www.oecd.org/ctp/beps-2014-deliverables.htm>. See also, ICI Memorandum #28375, dated 17 September 2014 (available at: http://www.ici.org/my_ici/memorandum/memo28375).

[3] ICI Memorandum #28024, dated 9 August 2014 (available at: http://www.ici.org/my_ici/memorandum/memo28024).

[4] The OECD's 2010 Report is available at: www.oecd.org/tax/treaties/45359261.pdf. See also, ICI Memorandum #23186, 15 January 2009 (available at: http://www.ici.org/policy/tax/foreign_tax/memo23186).