

**MEMO# 27456**

August 14, 2013

## **Draft Letter Regarding De Minimis Wash Sale Rule for Money Market Funds - Comments Requested**

[27456]

August 14, 2013

TO: TAX COMMITTEE No. 22-13

OPERATIONS COMMITTEE No. 36-13

TRANSFER AGENT ADVISORY COMMITTEE No. 58-13 RE: DRAFT LETTER REGARDING DE MINIMIS WASH SALE RULE FOR MONEY MARKET FUNDS - COMMENTS REQUESTED

Attached for your review is a draft letter to the Treasury Department and the Internal Revenue Service ("IRS") regarding recently proposed guidance providing a de minimis exception to the wash sale rule for money market funds with a floating net asset value ("NAV"). [\[1\]](#) The letter thanks the Treasury Department and IRS for their efforts to provide limited relief from the wash sale rule in the context of proposed money market reform, well in advance of the adoption of any proposals by the Securities and Exchange Commission ("SEC"). The letter argues, however, that the proposed de minimis exception does little to mitigate the substantial compliance burdens created by the SEC's floating NAV proposal. Funds, intermediaries, and certain investors still would be required to build systems to identify wash sale transactions, assess whether they meet the de minimis exception, and adjust cost basis if they do not. The proposed exception could prevent some investors from having indefinitely suspended losses, but it is not clear that the threshold proposed would be adequate in the context of a floating NAV.

The better solution for resolving the wash sale issue would be to exempt money market funds from the rule entirely. As the IRS and Treasury themselves have acknowledged, money market funds are not the type of investment at which the wash sale rule is aimed. The letter thus urges the Treasury Department and the IRS to consider a broader exemption for money market funds if the floating NAV proposal is adopted.

Please provide any comments on the draft letter to me ([kgibian@ici.org](mailto:kgibian@ici.org) or 202/371-5432) no later than Tuesday, August 27, 2013.

Karen Lau Gibian

Associate Counsel

[Attachment](#)

**endnotes**

[1] See Institute [Memorandum](#) (27356) dated July 5, 2013.

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