

MEMO# 32072

December 2, 2019

ICI Global Submission to OECD Urging Exemption for Funds from "Pillar 2" Minimum Tax Proposal

[32072]

December 2, 2019 TO: ICI Members

ICI Global Members

ICI Global Tax Committee

Management Company Tax Subcommittee

Tax Committee SUBJECTS: International/Global

Tax RE: ICI Global Submission to OECD Urging Exemption for Funds from "Pillar 2" Minimum Tax Proposal

ICI Global filed the attached comments to a [consultation document](#) released by the Secretariat to the Organisation for Economic Co-operation and Development (OECD) on the Pillar 2 Global Anti-Base Erosion (GloBE) proposal. This proposal, which is part of the OECD's response to "tax challenges" arising from the "digitalizing" economy, is designed to ensure that multinational entity (MNE) profits are taxed at some minimum rate.

Although the ICI Global submission frames our request as a "carve-out" for collective investment vehicles (CIVs), the submission states that CIVs do not satisfy any of the requirements for the GloBE proposal's application. Moreover, CIVs do not present the policy concerns underlying Pillar 2.

Two related concerns underly this submission. First, although the GloBE proposal appears targeted at related party transactions involving MNEs, elements of the proposal suggest broader potential application. Indeed, the "subject to tax" proposal expressly contemplates both (1) applying the rule to interest and royalty payments received from unrelated parties and (2) exploring "risk areas" that might justify broader application. Second, because CIVs typically incur no tax in their jurisdiction of domicile, some might consider CIVs a potential "risk area" that should be explored.

The submission addresses several areas of potential application of Pillar 2 to CIVs and explains why CIVs should not be within scope. For example, while CIVs may not pay tax in their jurisdiction of domicile, the submission explains that taxes typically are imposed both by the source country and by the country in which an investor resides; these taxes need to be considered in determining whether a minimum level of tax has been paid on the CIV's income.

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[Attachment](#)

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