

MEMO# 31100

February 21, 2018

For Your Review: Draft Letter on Tax and PAN Provisions in Indian Union Budget

[31100]

February 21, 2018 TO: ICI Global Regulated Funds Committee
ICI Global Tax Committee

Tax Committee RE: For Your Review: Draft Letter on Tax and PAN Provisions in Indian Union Budget

The Indian Union Budget, as we discussed during the recent Tax Committee conference call, would impact funds—as foreign portfolio investors (FPIs)—in several important ways. The attached draft letter discusses both the proposed taxation of previously exempt long-term capital gains (LTCGs) and the proposed expansion of the list of persons required to obtain a Permanent Account Number (PAN).

Our specific concerns with the proposed to tax LTCGs are that:

- The proposed 10 percent tax will discourage long-term investment in Indian securities;
- The proposal will be even more harmful to Indian investment unless the securities transaction tax (STT) is abolished;
- FPIs must be expressly covered by the step-up in the cost of acquisition of long-term capital assets (LTCAs) and the exemption of Rs 100,000 of LTCGs; and
- The cost-of-acquisition step-up may not be available for certain genuine transactions.

To address these concerns, we request among other things that:

- The LTCG tax proposal be abandoned; and
- If the proposal is not abandoned, that:
 - Its implementation be delayed for one year;
 - The tax rate on LTCGs be lowered — thereby increasing the long-term saving incentive;
 - The STT be abolished; and
 - Various technical issues with the tax' application be clarified.

Our specific concerns with the proposed expansion of the list of persons required to obtain a PAN are that:

- The proposed expansion, perhaps unintentionally, may cause every individual

connected to a FPI group including key personnel of an FPI group to seek tax registration in India;

- Foreign nationals may not be willing to obtain Indian tax registration and divulge their personal details without having any personal income taxable in India;
- No clarity is provided regarding either how compliance will be monitored or what would be the potential consequences to FPIs of non-compliance by their key personnel; and
- No clarity is provided regarding whether an income-tax return filing form will require disclosure of such PAN details of key personnel.

To address these PAN concerns, we request a carte-blanche exemption for key personnel associated with FPIs from obtaining a PAN. Any remedy short of a complete exemption will not be sufficient to address the industry's substantial concerns with this proposal.

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Please review the draft letter and provide any comments to the undersigned at lawson@ici.org or 202-326-5832. We will file the letter after discussing it at the ICI Tax Committee meeting on Tuesday, February 27.

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[Attachment](#)

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