

MEMO# 30639

March 15, 2017

Conference Call to Discuss Washington State Audits of Fund Managers

[30639]

March 15, 2017 TO: Management Company Tax Subcommittee

Tax Committee RE: Conference Call to Discuss Washington State Audits of Fund Managers

A conference call will be held on Tuesday April 4, at 1:00 PM (Eastern) to discuss industry-wide issues arising from audits by Washington State of fund management companies. To participate in the call, please dial 1-800-857-2255 and enter participant passcode 31362.

Washington State, as we have discussed in prior meetings and calls, has increased its audits of fund managers since the State enacted economic nexus and market based sourcing in 2010. The rules to apply the new Business and Occupational (B&O) tax apportionment rules – and the sourcing of management fees – were promulgated by regulation.

Recent audit and litigation activity of investment managers has focused on the following issues with this regime, as applied to investment companies and their affiliates:

- The constitutionality of economic nexus and market-based sourcing;
- Whether the promulgation of the regulation regarding management fee sourcing exceeded regulatory authority; and
- Inconsistencies in how the international investment management rate is being applied in various fact patterns.

The call is designed to advance the industry's collective understanding of the State's audit position and discuss what assistance, if any, the Institute can provide to the industry in general and to fund managers under audit, in particular.

Please feel free to contact Karen Gibian (kgibian@ici.org or 202-371-5432) or the undersigned (lawson@ici.org or 202-326-5832) if you have any questions, or thoughts to share, in advance of the call.

Keith Lawson
Deputy General Counsel - Tax Law

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