

MEMO# 31007

January 4, 2018

January 10th ICI Member Call to Discuss Disclosure Implications of Recent Tax Legislation

[31007]

January 4, 2018 TO: SEC Rules Committee RE: January 10th ICI Member Call to Discuss Disclosure Implications of Recent Tax Legislation

The recently enacted tax legislation^[1] may have disclosure implications for registered funds, including possible changes to prospectuses, SAs, marketing materials, and other fund documents.

ICI will hold a member call on Wednesday, January 10th, from 4-5 pm ET, to discuss the disclosure implications of the tax legislation. The dial-in information is:

Dial-in number:

Passcode: 1-888-701-8647

54279

If you plan to participate in the call, please RSVP to Helenia Walker at helenia.walker@ici.org.

This call is an opportunity for members to identify and discuss with others potential disclosures funds may need to make, or change, as a result of the tax legislation. We have identified several possible issues, listed below, which we plan to discuss on the call.

Please send me an email at sarah.bessin@ici.org by January 9th with additional issues you would like to discuss on the call.

1. Calculation of taxable equivalent yield (muni funds): The tax legislation limits the deduction for state and local taxes to \$10,000 for individuals. It is unclear whether the reduced tax benefit of the state and local tax deduction should be considered when calculating taxable equivalent yield for a state municipal fund.
2. Tax disclosure (N-1A, Item 7, 11(f), 24): Item 7 requires general disclosures about tax information relevant to investing in a fund. Most funds have fairly general tax disclosure in their prospectus in response to this item. Item 11(f) requires disclosure about the tax consequences of investing in the fund. Item 24 requires disclosure about taxation of the fund. Members should review their disclosure as there are some

possible impacts from tax reform, for example, for funds investing in municipal securities.

3. Funds investing in REITs (and MLPs): The tax legislation permits taxpayers to take a 20% deduction for “qualified business income” from certain pass-through entities, including dividends from REITs and certain MLPs. The legislation, however, does not provide a mechanism for funds that are regulated investment companies (RICs) that invest in REITs and MLPs to pass through the character of any qualified business income received from REITs or MLPs. Thus, a shareholder in a RIC investing in REITs or MLPs would not be permitted the deduction for the qualified business income attributable to the REIT or MLP, although the deduction would be permitted if the shareholder invested in those entities directly. This raises potential implications for prospectus disclosure and marketing materials.

Sarah A. Bessin
Associate General Counsel

endnotes

[1] For a summary, please see ICI Memorandum No. 30991 (Dec. 21, 2017), *available at* https://www.ici.org/my_ici/memorandum/memo30991.

Source URL: <https://icinew-stage.ici.org/memo-31007>

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.