

MEMO# 31336

August 16, 2018

Korea - Proposed OIV Tax Regime - ICI Global Submits Initial Observations Letter

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August 16, 2018 TO: ICI Members

ICI Global Tax Committee

Tax Committee SUBJECTS: International/Global

Tax RE: Korea - Proposed OIV Tax Regime - ICI Global Submits Initial Observations Letter

On July 30, 2018, the Korean Ministry of Economy and Finance introduced a proposal to treat certain overseas investment vehicles (OIVs) as beneficial owners for tax treaty purposes. If enacted, the law will become effective as of January 1, 2020.

Under the proposal, an OIV will be treated as the beneficial owner of Korea-source income if it is:

- “liable to tax” in the country in which it is resident;
- not established for the purpose of unjustly reducing personal income taxes or corporate income taxes with respect to Korea-source income; and
- treated as a “foreign corporation” under the Korean tax law.

Importantly, an OIV that is treated as a beneficial owner for tax treaty purposes would seemingly still be required to submit information about its investors (i.e., a jurisdiction summary).

ICI Global submitted the attached letter to the Ministry supporting the effort and urging Korea to adopt treaty-eligibility rules that apply the principles of the OECD’s 2010 Collective Investment Vehicle (CIV) report. The letter also raises a few initial observations for which clarification would be needed.

First, the letter requests that the government state explicitly that the “liable to tax” standard does not require a CIV to pay tax. Second, it urges that beneficial owner status should be permitted to all CIVs regardless of whether they are organized as corporations in their residence countries (i.e., business trusts). Finally, we advise that any investor information that may be required should not impose undue burdens on CIVs.

ICI Global will submit a more detailed follow-up letter in the coming weeks. Please contact

Katie Sunderland (katie.sunderland@ici.org or 202-326-5826) or Keith Lawson (lawson@ici.org or 202-326-5832) with any questions.

Katie Sunderland
Counsel - Tax Law

[Attachment](#)

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