

**MEMO# 32695**

August 21, 2020

# **Coalition Letter Supporting United Nations Model Tax Convention Draft Commentary on CIV Treaty Eligibility**

[32695]

August 21, 2020 TO: ICI Members

ICI Global Members

ICI Global Tax Committee

Tax Committee SUBJECTS: International/Global

Tax RE: Coalition Letter Supporting United Nations Model Tax Convention Draft  
Commentary on CIV Treaty Eligibility

Ten collective investment vehicle (CIV) associations today submitted to a United Nations subcommittee of tax experts the attached coalition letter, crafted by ICI Global, supporting draft Commentary for the UN Model Income Tax Convention. The Commentary incorporates all of the suggestions that were made in another coalition letter that was crafted by ICI Global and submitted to the subcommittee in 2019.

The draft Commentary complements the guidance issued in 2010 by the Organisation for Economic Co-operation and Development (OECD) following an extensive consultation with the Institute and several of the other associations signing this letter. All of the mechanisms for receiving treaty relief that are provided in the OECD guidance also are provided in the draft UN Commentary.

The coalition letter supports ensuring that all CIVs have some mechanism for claiming treaty relief. Alternative mechanisms are provided by the draft Commentary to accommodate differences in how CIVs are organized and operated (as a legal matter) and distributed (as a practical matter). Specifically,

- Two paragraphs of the draft Commentary provide mechanisms by which a CIV may receive full treaty relief. Importantly, paragraph 9.15 provides that CIVs meeting specific requirements may receive treaty relief in their own right. Paragraph 9.14 provides a mechanism by which CIVs that do not meet the requirements of paragraph 9.15 nevertheless may receive full treaty relief when a substantial portion of the investors are treaty entitled.
- Proportionate treaty relief—based upon the portion of CIV units held by treaty-eligible investors—is provided by paragraph 9.9.

- Look-through treaty relief treatment is provided by paragraph 9.16 for situations in which a large percentage of the owners of a CIV, or a class of CIV interests, are held by pension funds. This look-through treatment allows for the possibility of applying lower withholding tax rates or a full exemption based upon the treaty eligibility status of the pension fund investors.

Finally, the coalition letter supports the draft Commentary which, in paragraph 9.17, provides practical and reliable approaches for making treaty-eligibility determinations based upon the treaty eligibility of a CIV's individual investors. Without practical and reliable approaches for ensuring appropriate treaty relief, the cross-border CIV investment incentive intended by the treaty negotiators will not materialize.

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[Attachment](#)

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