

MEMO# 29555

December 16, 2015

For Your Review - Draft Letter to Swedish Tax Authority Urging Guidance on U.S. Fund Eligibility for Withholding Tax Exemption

[29555]

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TO: TAX COMMITTEE No. 43-15 RE: FOR YOUR REVIEW - DRAFT LETTER TO SWEDISH TAX AUTHORITY URGING GUIDANCE ON U.S. FUND ELIGIBILITY FOR WITHHOLDING TAX EXEMPTION

The attached letter to the Swedish Tax Authority (STA) will be discussed during the December 17 Tax Committee call. Please provide any comments on this short letter to the undersigned either during the call or by the day's end (at 202-326-5832 or lawson@ici.org).

U.S. mutual funds, as you know, have prevailed in their litigation to recover Swedish tax withheld in violation of the free movement of capital provision (Article 63) of the European Treaty (TFEU). [\[1\]](#) We understand that the STA in at least some situations is confirming that U.S. mutual funds also are exempt from the withholding tax prospectively.

The letter renews our request (also attached) that the STA publish guidance, on which all funds can rely, announcing that U.S. mutual funds are exempt from Swedish withholding tax; this published guidance would apply both prior to 2012 and since Sweden's withholding tax rules were amended effective 1 January 2012. The request is limited to mutual funds only because the STA in 2012 announced an exemption for European funds that issue redeemable securities; the relief we seek in this request thus is comparable to that provided already by Sweden for UCITS.

The letter also requests, should the STA insist that each fund apply for a private ruling exempting it from tax, that the STA provide clear guidance regarding how to request such a ruling. In particular, the letter requests all of the contact details for the person(s) to whom requests should be directed.

Keith Lawson

Deputy General Counsel - Tax Law

[Attachment 1](#)

[Attachment 2](#)

endnotes

[1] See ICI Memo [#28608](#), dated December 22, 2014.

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