

MEMO# 32180

January 28, 2020

ICI Submits Written Testimony on Hawaiian REIT Proposal

[32180]

January 28, 2020 TO: ICI Members

ICI Global Members

Tax Committee SUBJECTS: Fund Accounting & Financial Reporting

Tax RE: ICI Submits Written Testimony on Hawaiian REIT Proposal

ICI submitted written testimony opposing a proposal that would require real estate investment trusts (REITs) to file annual information returns identifying their shareholders and to withhold and pay on behalf of their shareholders a five-percent tax on distributions of income attributable to Hawaii. The proposal would also disallow a deduction for dividends paid by a REIT.

The proposal does not address the concerns raised in the ICI letter submitted last year opposing a similar measure.[\[1\]](#) Specifically, the proposal is not administrable and would lead to over-withholding and potential double taxation on mutual fund shareholders. This is because:

- REITs do not have access to the shareholder information needed to comply with the proposal's reporting requirement.
- REITs cannot calculate precisely—at the time each distribution is made—the portion attributable to income, gain, or return of capital, so REITs can be expected to withhold on the entire amount of their distributions.
- Mutual funds are not permitted by the Internal Revenue Code to “pass through” to their shareholders any state taxes paid by the funds, fund shareholders would not be able to claim a credit against their own state tax liability for any taxes paid by the funds to Hawaii.

Katie Sunderland
Assistant General Counsel

[Attachment No. 1](#)

[Attachment No. 2](#)

endnotes

[1] See [Institute Memorandum No. 31598](#) "ICI Submits Written Testimony on Hawaiian REIT Proposals," dated February 5, 2019.

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