

MEMO# 26341

July 25, 2012

Letter for your Review Regarding India's Draft GAAR Guidelines

[26341]

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TO: TAX COMMITTEE No. 36-12

ICI GLOBAL TAX COMMITTEE No. 6-12 RE: LETTER FOR YOUR REVIEW REGARDING INDIA'S DRAFT GAAR GUIDELINES

Attached for your review is a draft letter from ICI and ICI Global to the Indian Committee for Implementation of GAAR ("GAAR Committee") providing comments on the draft GAAR guidelines. The letter notes substantial deficiencies in the guidance that result in ongoing uncertainty regarding the application of GAAR and requests that the draft guidelines be revised and released for further comment.

As the ICI Tax Committee has discussed, India's recently enacted GAAR could have extremely broad and negative effects if its application is not properly circumscribed by published guidance. The letter explains how, despite obvious efforts being made to address the concerns raised in ICI and ICI Global's April 3 letter to the Ministry of Finance, the draft guidelines are insufficiently clear, leaving foreign investors uncertain regarding the tax consequences of their Indian investments. In particular, the letter addresses how the guidelines' substitution of conclusory statements for facts in the provided examples precludes the guidelines' usefulness.

Please provide any comments on the draft letter to Ryan Lovin (ryan.lovin@ici.org or 202-326-5826) or Keith Lawson (Lawson@ici.org or 202-326-5832) by noon on Monday, July 30.

Ryan Lovin
Assistant Counsel – Tax Law

[Attachment](#)

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.