

MEMO# 34290

September 15, 2022

ICI Letter to IRS Regarding Norway's Denial of Treaty Relief to RICs

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TO: ICI Members

ICI Global Members

Global Tax Committee

Tax Committee SUBJECTS: International/Global

Tax RE: ICI Letter to IRS Regarding Norway's Denial of Treaty Relief to RICs

The Norwegian Tax Administration (NTA) has been denying claims filed by RICs for recovery of tax withheld in excess of the treaty-provided rate for Norwegian dividends. The NTA's denial is based on Article 20 ("Investment or Holding Companies") of the US-Norway tax treaty. As stated by the NTA, relief is not warranted because the US tax imposed on the RIC with respect to the Norwegian dividends "is substantially less than the tax generally imposed by the United States on corporate profits."

The ICI, in the attached letter, has requested the IRS' assistance in ensuring that appropriate treaty relief is provided to RICs. The NTA, as explained in the ICI's letter, has literally read out of the treaty—in correspondence with a RIC taxpayer—the language that establishes conclusively that the RICs' claims are not barred by this Article.

The NTA's position critically ignores the Article's limitation to situations in which the reduced tax amount was achieved "by reason of special measures." Subchapter M, for the reasons provided in the ICI's letter, is not a special measure.

Norway's position thus inappropriately denies treaty relief for RICs investing in Norwegian equities. We will continue to pursue this issue with all appropriate authorities.

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