MEMO# 34518

December 13, 2022

ICI Submits Letter to Treasury and IRS on Inflation Reduction Act and Non-RIC Funds

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TO: ICI Members
Tax Committee SUBJECTS: Tax RE: ICI Submits Letter to Treasury and IRS on Inflation Reduction Act and Non-RIC Funds

ICI submitted the attached letter asking the Treasury Department and the Internal Revenue Service (IRS) to provide regulatory relief exempting certain registered investment funds from the tax provisions enacted by the Inflation Reduction Act of 2022 (the "Act"). Specifically, the new corporate minimum tax and the new excise tax on the repurchase of corporate stock provide exceptions for all regulated investment companies (RICs). As discussed in our letter, there are a small number of funds, however, that are registered under the Investment Company Act of 1940 that are not RICs for tax purposes ("non-RIC funds"). Absent regulatory relief, these non-RIC funds could be subject to the new minimum corporate tax and excise tax.

An exception to these provisions for RICs is warranted because of their organizational structure and operation and the applicable securities laws and accounting standards. That rationale applies equally to non-RIC funds. Absent such an exemption, application of the corporate minimum tax and the excise tax on stock repurchases to non-RIC funds will have adverse consequences on fund investors.

We thus ask the Treasury Department and the IRS to clarify that these non-RIC funds (1) are not "applicable corporations" for purposes of the corporate minimum tax, and (2) are not subject to the excise tax on corporate stock repurchases. The Act provides ample regulatory authority to the Treasury Department and the IRS to correct these oversights.

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