

MEMO# 35005

February 23, 2023

Supplemental ICI Letter to Treasury and IRS on Inflation Reduction Act Provisions and Non-RIC Investment Companies

[35005]

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TO: ICI Members

Tax Committee SUBJECTS: Tax RE: ICI Submits Supplemental Letter to Treasury and IRS on Inflation Reduction Act Provisions and Non-RIC Investment Companies

ICI, together with members and outside advisors, met recently with representatives from the Treasury Department and the Internal Revenue Service (IRS) to discuss certain provisions of the Inflation Reduction Act of 2022. Specifically, ICI has requested an exemption from the excise tax on stock repurchases and the corporate alternative minimum tax for investment funds that are registered under the Investment Company Act of 1940 but that are not regulated investment companies (RICs) for tax purposes.[\[1\]](#) Both provisions currently include exemptions for RICs. As we discussed with the government, ICI believes the rationale for providing exemptions for RICs applies equally to these non-RIC funds.

During our meeting, the IRS and Treasury Department asked for additional information regarding: (1) the number of non-RIC funds; (2) the relationship between authorized participants and exchange-traded funds; (3) our view regarding why non-RIC funds do not raise the policy concerns that the tax provisions are intended to address; and (4) a drafting proposal for excepting these funds. The attached letter responds to those requests.

Although relief from both provisions is critical, ICI has asked for expedited attention to the excise tax on stock repurchases, as that provision immediately impacts ETFs and closed-end funds. Absent the exemption already provided to RICs, retail investors in these non-RIC funds will be negatively impacted.

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Associate General Counsel

Notes

[1] See ICI [Memorandum No. 34518](#), dated December 13, 2022.

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