

MEMO# 35460

September 29, 2023

IRS Issues Wash Sale Exemption Guidance for Money Market Funds Imposing Liquidity Fees

[35460]

September 29, 2023

TO: ICI Members

Investment Company Directors

Money Market Funds Advisory Committee

Tax Committee SUBJECTS: Money Market Funds

Tax RE: IRS Issues Wash Sale Exemption Guidance for Money Market Funds Imposing Liquidity Fees

The Internal Revenue Service (IRS) today issued guidance requested by the ICI[\[1\]](#) that will exempt from the wash sale rule any loss incurred by a shareholder in a money market fund with a stable net asset value (NAV). We requested this guidance because liquidity fees imposed by such funds, following the Securities and Exchange Commission's (SEC's) adoption of amendments to Rule 2a-7,[\[2\]](#) would create losses when stable NAV shares were redeemed. The IRS guidance, Revenue Procedure 2023-35 (attached), and the SEC amendments both become effective on October 3, 2023.

The wash sale rule of Internal Revenue Code section 1091 prevents a taxpayer from claiming a loss on stock sold to the extent that shares of that stock are acquired within 30 days before or after the sale. Instead, the amount of the disallowed loss is added to the cost basis of the newly acquired shares. The wash sale rule can be particularly problematic, from a tax compliance perspective, for shareholders in money market funds who reinvest dividends monthly or otherwise engage in frequent share purchases and redemptions.

The IRS guidance issued today addresses the concerns ICI raised regarding the wash sale rule's potential application to stable NAV money market funds. Indeed, the guidance expands upon guidance that we requested and received in 2014[\[3\]](#) after the SEC adopted amendments to Rule 2a-7 for money market funds with floating NAVs. Today's IRS guidance exempts from the wash sale rule the shares of all money market funds. Thus, any loss incurred by a shareholder in a money market fund will be allowable as a deduction in the year incurred.

Keith Lawson
Deputy General Counsel - Tax Law

Notes

[1] See ICI Memo #[35410](#), dated August 18, 2023.

[2] See ICI Memo #[35375](#), dated July 13, 2023.

[3] See ICI Memo #[28281](#), dated July 24, 2014.

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.