

MEMO# 35672

April 10, 2024

ICI Comments on Washington Capital Gain Excise Tax Regulations

[35672]

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TO: ICI Members

Tax Advisory Committee

Tax Committee SUBJECTS: State Issues

Tax RE: ICI Comments on Washington Capital Gain Excise Tax Regulations

On April 10th the ICI submitted the attached comment letter to the Washington Office of the Code Reviser, recommending revisions to an example in the proposed regulations for the Washington Capital Gain Excise Tax.[\[1\]](#) The example demonstrates the application of the excise tax to a mutual fund shareholder in Washington. The example describes mutual funds as "a type of pass-through entity for federal income tax purposes" and implies that shareholders would be subject to excise tax based on their portion of the fund's capital gains. The ICI comment letter:

- Describes the federal taxation of mutual funds and shareholders, and specifically with respect to gain gains, and
- Requests clarification that
 - mutual funds are not a pass-through entity for federal tax purposes,
 - capital gains do not flow through the fund to shareholders, but instead are subject to the rules of Subchapter M
- Invites feedback from the Office to discuss the comments.

These clarifications may not change the outcome described in the example; however, we hope to prevent a regulatory reference to mutual funds as passthrough entities for federal tax purposes.

Mike Horn

Deputy General Counsel - Tax

Notes

[\[1\]](#)

<https://dor.wa.gov/sites/default/files/2023-09/20-301cr2frmdraftSept23.pdf?uid=6535545a8a972>

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