MEMO# 35715

May 23, 2024

ICI Tax Committee Member Survey: Fund Reorganization Tax Issues in India

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TO: Global Tax Committee
Tax Committee RE: ICI Tax Committee Member Survey: Fund Reorganization Tax Issues in India

ICI is surveying members investing in India regarding their experience either undergoing or considering a reorganization and the India tax implications for their funds. Individual firm responses to this survey will be maintained as confidential and only anonymized and aggregated data will be used in connection with ICI's advocacy efforts and discussions with policymakers. We are requesting the name and contact details for respondents so we can share the aggregated and anonymized survey responses as may be appropriate with survey participants and for any necessary follow up.

Currently under Indian tax law, foreign (i.e., non-Indian) fund reorganizations are taxable if either:

(a) the reorganization involves a foreign regulated fund organized as a non-corporate entity (for example: trust, partnership firm, etc), or

(b) the reorganization results in the transfer of securities other than shares (e.g., Indian debt securities, Indian derivatives, units of business trusts) regardless of whether the foreign regulated funds are organized as corporates or non-corporates.

In contrast, foreign regulated funds organized as corporations that invest in Indian equity shares are permitted to undergo tax neutral reorganizations. Similarly, Indian mutual funds that reorganize do not suffer any Indian tax consequences. Consequently, reorganizations cause foreign regulated funds to prematurely (at the time of reorganization) recognize gains and related taxes that otherwise would not be recognized until such funds ultimately dispose of their Indian securities, and puts them on an unlevel playing field with domestic mutual funds and foreign regulated funds organized as corporations.

In this context, we have strongly urged the Indian Government to enact legislation that permits all foreign regulated funds, regardless of form, to undergo tax neutral reorganizations with respect to all Indian securities (i.e., equity, debt, derivatives, units of business trust, etc.), provided the reorganizations are tax neutral in the funds' home countries. Attached is a recent submission to the Indian government describing these issues in more detail.

Each member firm should complete only one survey response by May 29, 2024. Please contact Katie Sunderland (katie.sunderland@ici.org) with any questions.

Survey Link

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