

COMMENT LETTER

December 7, 2007

ICI Letter to House Leaders Urges Extension of Foreign Withholding Tax Exemption, December 2007

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The Honorable Charles B. Rangel
Chairman Ranking
Committee on Ways & Means
U.S. House of Representatives
2354 Rayburn House Office Building
Washington, DC 20515

The Honorable Jim McCrery
Minority Member
Committee on Ways & Means
U.S. House of Representatives
242 Cannon House Office Building
Washington, DC 20515

Re: Expiring Provision With Immediate Impact on Mutual Fund Shareholders

Dear Chairman Rangel and Ranking Minority Member McCrery:

The Investment Company Institute,^{[1](#)} on behalf of mutual funds and their shareholders, thanks you and your colleagues in the House of Representatives for approving the tax extenders legislation in November.^{[2](#)} This legislation extends the expiring provisions exempting foreign investors in U.S. funds from withholding tax on interest income and short-term capital gain distributions.^{[3](#)} I would like to call to your attention to the importance of working with the Senate to finalize this legislation during December. Significant irreparable harm will occur if these “flow-through” provisions are not enacted promptly.

The harm that will arise if the flow-through provisions expire after 2007 cannot be remedied fully by enacting legislation in 2008 that applies retroactively to January 1, 2008. First, foreign investors who prefer to minimize their U.S. withholding tax liability (even if such tax eventually may be recoverable by filing a U.S. tax return) will not invest in U.S. funds until after this legislation is enacted. Moreover, those foreign investors already in U.S. funds will have a significant U.S.-tax-law incentive to leave them before 2008, since these foreigners

can purchase one of many alternative investments (including foreign funds investing in U.S. debt instruments) without incurring any U.S. tax. Once this money leaves U.S. funds, there is no assurance that it will return.

Our members are expecting significant redemptions beginning later this month, as foreign investors move out of mutual funds and into other vehicles on which this tax is not imposed. To stop this financial exodus, which we have been advised will be in the many billions of dollars, the flow-through provision must be extended this year.

Please feel free to contact me or Dan Crowley, ICI's Chief Government Affairs Officer at 202/326-5962, if we can provide you with additional information.

Sincerely,

Paul Schott Stevens
President & CEO

ENDNOTES

[1](#) The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of \$12.98 trillion and serve almost 90 million shareholders.

[2](#) H.R. 3996, the "Temporary Tax Relief Act of 2007."

[3](#) Code sections 871(k) and 2105(d).

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