

COMMENT LETTER

June 9, 2004

Institute Supports Legislation Enhancing U.S. Funds' International Competitiveness, June 2004

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The Honorable William M. Thomas
Chairman
Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Chairman:

The Investment Company Institute¹ is pleased to support H.R. 4520, the "American Jobs Creation Act of 2004." This bill would enhance the international competitiveness of U.S. mutual funds by treating distributions of short-term capital gains and U.S.-source interest income by U.S. funds to foreign investors as exempt from U.S. withholding tax. As described below, H.R. 4520 would remove a significant U.S. tax barrier to foreign investment in U.S. mutual funds.

Under present law, short-term capital gains and U.S.-source interest income generally are exempt from U.S. withholding tax if received directly by a foreign investor, but are subject to tax if the income flows through U.S. funds. This result occurs because U.S. tax law treats distributions of these types of income as "dividends" subject to U.S. withholding tax. By permitting the character of short-term capital gains and U.S.-source interest income distributed by U.S. funds to "flow through" to foreign investors, H.R. 4520 would provide foreign investors in U.S. funds with the same treatment available today when comparable investments are made directly or through foreign funds.

The Institute supports the enactment of legislation that would make U.S. mutual funds available to foreign investors without adverse U.S. withholding tax treatment. Absent this change, foreign investors seeking to enter the U.S. capital markets or obtain access to U.S. professional portfolio management will continue to have a significant U.S. tax incentive not to invest in U.S. funds.

In addition, H.R. 4520 would benefit U.S. mutual funds by allowing them to translate foreign taxes into U.S. dollars on the date the foreign taxes are paid, rather than using an average

exchange rate for the year in which the taxes are paid. This provision, with a technical change we are seeking, would greatly simplify the calculation of foreign taxes paid.

We look forward to continuing to work with you on these important provisions for U.S. mutual funds.

Sincerely,

Paul Schott Stevens
President

cc: The Honorable J. Dennis Hastert, Speaker of the House
The Honorable Tom DeLay, Majority Leader
The Honorable Roy Blunt, Majority Whip
The Honorable Nancy Pelosi, Minority Leader
The Honorable Steny Hoyer, Minority Whip
The Honorable Charles Rangel, Ranking Member, Committee on Ways and Means

Endnotes

[1](#) The Investment Company Institute is the national association of the American investment company industry. Its membership includes 8,633 open-end investment companies ("mutual funds"), 622 closed-end investment companies, 126 exchange-traded funds and 5 sponsors of unit investment trusts. Its mutual fund members manage assets of about \$7.393 trillion. These assets account for more than 95% of assets of all U.S. mutual funds. Individual owners represented by ICI member firms number 86.6 million as of mid 2003, representing 50.6 million households.

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