

COMMENT LETTER

December 7, 2007

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

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The Honorable Max Baucus
Chairman Ranking
Committee on Finance
United States Senate
511 Hart Senate Office Building
Washington, DC 20510

The Honorable Charles E. Grassley
Minority Member
Committee on Finance
United States Senate
135 Hart Senate Office Building
Washington, DC 20510

Re: Expiring Provision With Immediate Impact on Mutual Fund Shareholders

Dear Chairman Baucus and Ranking Minority Member Grassley:

The Investment Company Institute,^{[1](#)} on behalf of mutual funds and their shareholders, urges that Congress this month extend the expiring provisions exempting foreign investors in U.S. funds from withholding tax on interest income and short-term capital gain distributions.^{[2](#)} Significant irreparable harm will occur if these “flow-through” provisions are not enacted during 2007.

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](#) These provisions, (Code sections 871(k) and 2105(d)) were included most recently in H.R. 3996, the "Temporary Tax Relief Act of 2007," which was approved by the House of Representatives in November.

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