INVESTMENT COMPANY INSTITUTE

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By Electronic Delivery

May 16, 2018

The Honorable Phil Steck
LOB 702
Albany, NY 12248

RE: OPPOSITION to A9666

Dear Assemblymember Steck:

The Investment Company Institute[1]—on behalf of shareholders in all funds, including mutual funds, that are registered under the Investment Company Act of 1940 (the "1940 Act")—strongly opposes A9666. A reduction of the rebate of stock transfer sales tax[2] from 100 percent to 60 percent would increase the cost of saving for retirement and other long-term needs for New York residents and other individuals.

Specifically, the proposed reduced rebate would significantly increase the cost of transactions that funds conduct in their portfolio. Because fund investors are the sole owners of a fund, the investors' return is reduced on a dollar-for-dollar basis by all costs incurred by the fund. A reduced rebate of the tax, consequently, would increase a fund's costs and reduce the return to the middle-class shareholders who own the fund's shares.

Importantly, the reduced rebate also would impact all investors purchasing or selling 1940 Act registered funds (exchange-traded funds (ETFs) and/or closed-end funds) on the stock exchange. These individuals would incur the tax on every share transaction as well as on any trades in their funds' portfolios.

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[1] The Investment Company Institute (ICI) is the leading association representing regulated funds globally, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. ICI's members manage total assets of US$21.7 trillion in the United States, serving more than 100 million US shareholders, and US$7.5 trillion in assets in other jurisdictions. ICI carries out its international work through ICI Global, with offices in London, Hong Kong, and Washington, DC.

[2] Although New York has imposed this tax since 1915, a portion (presently 100 percent) of the collected tax has been rebated since 1979.

If enacted, a 100 percent rebate of the stock transfer tax must be maintained for all 1940 Act registered funds.

Background

1940 Act-registered funds are publicly-offered investment pools that provide individuals with access to a diversified portfolio of stocks, bonds, or other securities that investors cannot replicate efficiently. These funds, consequently, are very attractive investment vehicles for moderate-income investors.[3] Our capital markets have been democratized by funds in ways that could not have been imagined just a generation or two ago. In fact, at year-end 2016, funds held approximately 31 percent of US-issued equities.[4]

The typical fund investor is a middle-class American with a median household income of $94,300 and modest holdings.[5] Almost half of all American households[6] invest in mutual funds; they depend on their fund investments to buy a home, finance a child's education, support aging parents or extended family, and prepare for retirement.[7]

Fund Investors Are the Middle Class

The bill's sponsor claims that rebating 100 percent of the tax back to the parties paying it no longer can be justified. Repealing the full rebate purportedly would mitigate the transfer of wealth from the middle class to the top of the economic spectrum.

A substantial portion of this tax, if not rebated, would fall on the moderate-income investors in funds and would decrease their return on investment. This proposal, therefore, would have the opposite of its intended effect. Given the increased responsibility that individuals have for ensuring their own retirement security, the legislature should be creating incentives to *encourage* rather than *discourage* saving.

Fund Investors Did Not Cause the Financial Crises

A9666 also cites as justification for the proposal the cost to society of the financial crises and subsequent bailouts of the financial industry. The proposal also implies that the tax would improve the functioning of the markets and help long-term investors. The proposal thus seems to assume that the

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[3] Retail investors (i.e., individuals) hold the vast majority (89 percent) of US mutual fund assets. https://www.ici.org/pdf/2017_factbook.pdf, Figure 2.3.
[4] https://www.ici.org/pdf/2017_factbook.pdf, Figure 1.6.
[5] The most recent ICI data show median mutual fund assets of $125,000 per household in four accounts. https://www.ici.org/pdf/2017_factbook.pdf, Figure 6.2.
[6] The most recent ICI data show 43.6 percent of US households owned mutual funds in 2016. https://www.ici.org/pdf/2017_factbook.pdf, Figure 6.1.
[7] The most recent ICI data show that individuals invest in mutual funds to save for retirement (92 percent), for emergencies (42 percent), and for education (22 percent). https://www.ici.org/pdf/2017_factbook.pdf, Figure 6.2.

parties that caused the financial crises and then received government bailouts will be the only parties hit by the tax.

This justification does not apply to fund investors; these individuals neither caused the financial crisis nor received government bailouts. Instead, like other members of the general public, fund investors suffered from the crisis; their tax dollars then were used to fund the bailouts.

Recommendation

The Institute strongly recommends that any reduction of the rebate on stock transfer tax paid ***not*** be extended to1940 Act-registered funds. Any such reduction in the rebate to funds would be borne by their investors—average Americans saving for their long-term needs. The unintended (and most unfortunate) consequence of this bill would be to harm those Americans whom the bill's sponsor is trying to help.

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The Institute appreciates your consideration of our concerns. Please do not hesitate to contact the undersigned at (202) 326-5826 if you have any questions regarding this letter or would like any additional information regarding the organization, operation, or taxation of investment companies and/or their shareholders.

Sincerely,

Katie Sunderland

Katie Sunderland
Counsel – Tax Law