



1401 H Street, NW, Washington, DC 20005-2148, USA  
202-326-5800 www.ici.org

October 26, 2022

Mr. Charles Rettig  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Ms. Nikole Flax  
IRA Transformation & Implementation Office  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

RE: Modernizing RIC-related forms via  
Inflation Reduction Act funding

Dear Mr. Rettig and Ms. Flax:

The Investment Company Institute<sup>1</sup> urges the Internal Revenue Service (IRS) to utilize funding provided by the Inflation Reduction Act (the Act) to process electronically:

1. IRS Form 8802, Application for US Residency Certification;
2. IRS Form 6166, Certification of US Tax Residency (CoRs);
3. IRS Form 1120-RIC, US Income Tax Return for RICs; and
4. IRS Form 8613, Return of Excise Tax on Undistributed Income of RICs (as well as filing extension requests on IRS Form 7004)

The paper filing and processing of these forms result in investors losing tax treaty relief to which they are entitled. While taxable investors can claim larger foreign tax credits (which result in dollar-for-dollar losses to the US fisc), the cost of unrecovered taxes are borne directly by investors holding through tax-deferred accounts. The RIC tax returns, specifically, can be hundreds of pages long and are an onerous and costly endeavor to mail and a significant administrative burden for the IRS to process.

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<sup>1</sup> The [Investment Company Institute](#) (ICI) is the leading association representing regulated investment funds. ICI's mission is to strengthen the foundation of the asset management industry for the ultimate benefit of the long-term individual investor. Its members include mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and UCITS and similar funds offered to investors in Europe, Asia, and other jurisdictions. Its members manage total assets of \$28.8 trillion in the United States, serving more than 100 million investors, and an additional \$8.1 trillion in assets outside the United States. ICI has offices in Washington, DC, Brussels, London, and Hong Kong and carries out its international work through [ICI Global](#).

The historic funding provided by the Act affords the IRS with an unparalleled opportunity to transform and modernize its taxpayer service capabilities and reduce taxpayer burden. Modernizing the processing of these forms should be a taxpayer-services priority.

#### Modernize the Application Process and Issuance of US Certificates of Residency

US treaty partners generally require investors to provide an IRS-issued CoR demonstrating that the person claiming treaty benefits is a United States resident for federal tax purposes.<sup>2</sup> A significant number of jurisdictions require valid CoRs to be furnished to the withholding agent in *advance* of the date of payment of the income event to benefit from treaty relief at source; in many of these markets, it is not possible to obtain relief retroactively through reclaims.<sup>3</sup>

Delays in receiving CoRs at the beginning of a calendar year are a constant concern. The problems are more significant if the jurisdiction requires that the CoR be provided to the local custodian prior to, or very shortly after, the income payment. The first calendar-year interest payments in many markets are made on January 15. Dividend payments, sometimes the only payment for the year, are made in many markets around March 15. Delayed treaty relief recoveries impact investor performance. Unrecovered amounts result in lower returns for investors in tax-deferred accounts and increased foreign tax credits for those taxable investors claiming them.

The typical processing time to issue CoRs ranges from 8-12 weeks when all goes well. Delays can result from erroneous rejections. CoRs, moreover, too frequently are issued with mistakes or omissions due to human error resulting from manual processing errors. The turnaround time can be significantly longer in cases when the applicant's current tax year return has been filed but not yet posted at the time the Form 8802 application is being reviewed.<sup>4</sup> These delays often result in a permanent loss of treaty benefits for income received prior to the date on which the CoRs can be furnished to a withholding agent and for which retroactive relief through tax reclaims is not permitted.

These challenges could be addressed by establishing an electronic application processing and improved payment portal. Electronic submissions of Form 8802, for example, would speed processing time for the IRS by eliminating the time needed for manual entry. It would also eliminate errors that occur when information on paper form is transcribed manually. Finally, it would make it easier for filers and the IRS to track the progress of applications and streamline efforts by filers to resolve issues.

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<sup>2</sup> An increasing number of countries require CoRs in a digital format.

<sup>3</sup> These countries that permit only at-source treaty relief, either as a legal or practical matter, include: Egypt, Indonesia, Italy, Japan, Mexico, Philippines, Poland, Romania, Russia, Ukraine, and Venezuela.

<sup>4</sup> The IRS recently issued a [temporary change in policy](#) for two years permitting applicants to submit a signed copy of the current year base income tax return rather than a copy of your entire return. While this policy change is helpful, there continue to be significant delays in receiving CoRs which cause taxpayers to forgo at-source relief in certain jurisdictions.

An enhanced electronic payment feature would also simplify the process. This is especially true for asset managers that complete Form 8802s on behalf of the RICs that they manage and for global custodians that do the same on behalf of their clients. We understand that the existing electronic payment option available through [www.pay.gov](http://www.pay.gov) requires a separate payment to be made for each Form 8802 submitted. Because asset managers and global custodians make high volume submissions on behalf of their RICs or clients (often hundreds or thousands at a time), the need to separately log into the electronic payment portal and separately enter payment information for each individual application makes the use of that portal prohibitively time-consuming. The process is so cumbersome that, unfortunately, it is faster to send a check to accompany multiple paper applications. We recommend that the electronic payment be permitted to be made for, and associated with, multiple Forms 8802.

#### Electronic Filing of RIC Tax Forms

ICI recommends that the IRS permit RICs to file electronically Form 1120-RIC, US Income Tax Return for RICs and Form 8613, Return of Excise Tax on Undistributed Income of RICs (as well as filing extension requests on Form 7004).<sup>5</sup> The requirement that these returns, which together can be hundreds of pages long, be filed on paper is particularly problematic in our increasingly remote work environment.<sup>6</sup>

Specifically, we suggest that the Modernized e-File (MeF) system be updated to process these forms. Electronic filing reduces tax compliance burdens on taxpayers, especially with respect to bulky corporate returns such as the Form 1120-RIC. It also would allow RIC tax returns to be immediately posted to the IRS system which, as described above, would facilitate faster processing of CoRs.

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We strongly believe that these investments will make the IRS more efficient and taxpayer friendly and result in a net positive to the US fisc as fewer taxpayers claim foreign tax credits. If I can provide you with any additional information regarding these issues, please contact me at 202-326-5826 or [katie.sunderland@ici.org](mailto:katie.sunderland@ici.org).

Sincerely,



Katie Sunderland

Assistant General Counsel – Tax Law

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<sup>5</sup> See Institute letter to Charles Rettig and Michael Desmond, [Changes to IRS Forms 1120-RIC](#), dated November 20, 2019,

<sup>6</sup> See Institute letter to Charles Rettig and David Kautter, [COVID-19: IRS Guidance Urgently Needed for RICS](#), dated March 23, 2020.