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By Electronic Delivery

February 6, 2015

Michael Fatale
Chief, Rulings and Regulations Bureau
Massachusetts Department of Revenue
100 Cambridge Street
Boston, MA 02114-9566

RE: Mutual Fund Apportionment Should Rely
Upon Census Data Where Necessary

Dear Michael:

The Investment Company Institute¹ recommends that Massachusetts provide additional guidance regarding the Massachusetts sourcing rules for mutual fund sales. When, due to the intermediated nature of the mutual fund industry, sufficient information cannot be obtained regarding the domicile of a fund's shareholders, census information can be used to determine a reasonable approximation.

Because mutual fund shares often are held through nominee accounts,² mutual funds typically do not have access to the information necessary to make state-by-state ownership determinations with 100% certainty. Acquiring detailed information from nominees, in many cases, would be at best both extraordinarily difficult and costly. A mutual fund may have residence information regarding direct shareholders that can be used to extrapolate the domiciles of the fund's indirect shareholders. In such circumstances, extrapolation can provide a reasonable approximation. Any adoption of extrapolation should be accompanied by clear rules indicating the limitations, if any, on its utilization. For example, many funds have indirect shareholder bases that are significantly larger than their direct shareholder

¹ The Investment Company Institute (ICI) is the world's leading association of regulated funds, 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 U.S. fund members manage total assets of \$17.6 trillion and serve more than 90 million U.S. shareholders.

² Nominee accounts include street name accounts set up by brokerage firms, banks, and financial planners for their customers and those set up by so-called "fund supermarkets," which are created by financial services firms to invest their clients' assets in other firm's mutual funds. Because customer identity information is a valuable commercial asset, firms with the customer relationship may utilize the nominee account structure to shield the client's identity from competitors, including mutual funds and the financial services firms that manage mutual funds.

base. If there is some threshold beyond which extrapolation of indirect shareholders is viewed as unreliable, it must be explicitly provided in guidance. Failing to do so invites unnecessary and costly audit disputes.

Similarly, a mutual fund's management company may contract with a subadvisor or certain other service providers to provide services to the fund that qualify under Massachusetts law for sourcing to the mutual fund shareholders. Such subadvisors and service providers generally will have no information regarding the residence of a fund's shareholders. U.S. census data can provide the necessary fallback rule in situations where no direct shareholder information is available or extrapolation from a small direct shareholder base is not permitted.

U.S. census data is publicly available and provides the necessary reasonable approximation. Most mutual funds are distributed very broadly throughout the United States³ and have many thousands, tens of thousands, or hundreds of thousands of investors. Data collected by the ICI suggests that census data would provide a reliable estimate of mutual funds' proportion of assets that relate to Massachusetts residents. As shown in Table #1 below, census data shows that Massachusetts residents comprised approximately 2.1 percent of the population of the United States in 2010-2013.⁴ The ICI estimates that over the same period, Massachusetts residents owned approximately 2.5 percent of the assets of U.S. mutual funds.⁵

	2010	2011	2012	2013
Census Data	2.122%	2.120%	2.117%	2.117%
ICI Data	2.592%	2.626%	2.472%	2.511%
(Difference)	-0.470%	-0.506%	-0.355%	-0.393%

ICI obtained the data to prepare this estimate as follows. ICI's research department conducts an annual estimation of household mutual fund ownership by state using the ICI Annual Mutual Fund

³ Municipal bond funds are the one type of mutual fund that we are aware exhibit significant geographic concentration. Many states provide an exemption from state and local taxes for interest paid on bonds issued by such state and its localities, but impose tax on interest paid on municipal bonds issued in other states. This causes investors in many states, including Massachusetts, to have a significant bias toward municipal bond funds that invest only in their own state's securities. However municipal bond funds may not have 100% in-state shareholders. Some residents from states that do not tax out of state municipal bond interest (such as North Dakota and the District of Colombia) may also choose to invest in a municipal bond fund that focuses on Massachusetts-issued bonds.

⁴ See <http://www.census.gov/popest/> for data. Table 1. Annual Estimates of the Population for the United States, Regions, States, and Puerto Rico, U.S. Census Bureau, Population Division, Released December 2013.

⁵ The ICI can make the full dataset for all states available upon request.

Tracking Survey (Tracking)⁶ and the Census Bureau's Current Population Survey (CPS). The first part of the process involves running a logistic regression on the Tracking survey to determine the probability of each respondent household owning mutual funds based on various demographic parameters. Next, the parameters of this equation are then used to model the probability of each household in the Current Population Survey using the same parameters. The Census data is then divided up by state to get an estimation of the number of households in each state that probabilistically own mutual funds. Finally, the national average of the dollars invested in mutual funds in each household from the Tracking survey is used to determine the amount of mutual funds owned in each state by multiplying this average by the number of households in the CPS. To our knowledge, this is the only available estimate of household mutual fund ownership and asset totals by state.

We submit that the ICI's estimates demonstrate that publicly available census data provides a reasonable proxy for Massachusetts residents' ownership of mutual funds for purposes of applying the Massachusetts mutual fund services apportionment regulations. If we can provide you with any additional information regarding these issues, please contact me at 202-326-5826 or ryan.lovin@ici.org.

Sincerely,

/s/ Ryan Lovin

Ryan Lovin

Assistant General Counsel – Tax Law

cc: rulesandregs@dor.state.ma.us

⁶ The ICI Annual Mutual Fund Tracking Survey's results are collected in the attached ICI research report, *Profile of Mutual Fund Shareholders, 2013* (published February, 2014). The report explores how mutual fund-owning households' demographic and financial characteristics, pattern of mutual fund ownership, financial assets, financial goals, and willingness to take risk vary by a number of dimensions. Those dimensions include age, generation, household income, mutual fund purchase source, year of initial mutual fund purchase, and willingness to take financial risk.