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Commission announces new guidelines to improve withholding tax procedure

On 11 December 2017 the European Commission put forward new guidelines on withholding taxes to help Member States reduce costs and simplify procedures for cross-border investors in the EU.

The recommendations, developed alongside national experts, form part of the EU's Capital Markets Union Action Plan and should improve the system for investors and Member States alike. In particular, the Code of Conduct - which is envisaged to apply on cross-border dividend, interest and royalty income - aims to reduce the challenges faced by smaller investors when doing business cross-border. It should result in quick, simplified and standardised procedures for refunding withholding taxes where appropriate.

Implementation of the Code of Conduct is voluntary for Member States. It provides a snapshot of the problems faced by cross-border investors and explains how more efficient tax procedures can be put in place. The Code outlines a range of practical ways for Member States to address key issues including:

Submit refund claims or apply for relief: Possibility of beneficial owners, non-resident financial institutions and other representatives to submit refund claims or apply for relief. For instance, beneficial owners, including those with a low value portfolio, are able to claim refund or apply for relief on their own behalf, without any intermediary; non-resident intermediaries are allowed to claim refund and apply for relief on behalf of their clients in a non-discriminatory manner.

Efficient and user-friendly digital WHT procedures: Digitalisation of the reclaim process. Digitalisation can be defined as the adoption or increase in use of digital or computer technology by an organization. It takes time, demands resources and can be carried out with various degrees of maturity (in the case of WHT processes, it can range from using emails and /or publishing forms online to full online processes).

Efficient internal IT systems: Tax administrations to use IT systems for efficiently processing reclaims and refunds, as well as, when applicable, a relief at source system.

Effective reliefs and provision of refunds in a short period: Provide relief and refunds in an appropriate period of time and normally within 6 months of receipt of a fully documented and valid claim for refund or application for relief by the relevant tax authority.

User-friendly forms and user-friendly documentation requirements: The tax administrations should make the forms for the submission of refund claims or application for relief as user-friendly as possible. In addition, tax administrations should provide clear requirements in relation to which supporting documents taxpayers have to provide in order to substantiate their claims for refund or applications for relief vis à vis tax administrations. Document requirements are published online in at least one language customary to the sphere of international finance. Documents requested are relevant and necessary.

Set up a single point of contact: Tax administrations should have a single point of contact for all aspects concerning the WHT procedures. The single point of contact should be easily found, i.e. on the website of the tax administration.

Relief at source: Carrying out relief at source requires the assumption of important responsibilities and obligations by financial intermediaries which can be held liable for failures to comply with their obligations.

As set out in the Capital Markets Union Action Plan, the European Commission encourages Member States

to adopt systems of relief-at-source from withholding taxes and to put in place better refund procedures. The Commission went on to note that whereas some of the suggestions may be carried out relatively quickly and cheaply, others may take longer and involve substantial investments, in particular when it comes to IT systems.

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Schlagwörter

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