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EU Commission: Improve withholding tax procedures to boost cross-border investment and help fight tax abuse

On 19 June 2023 the European Commission proposed new rules to make withholding tax procedures in the EU more efficient and secure for investors, financial intermediaries (e.g., banks) and Member State tax administrations. This initiative is aimed to promote fairer taxation, fight tax fraud, and support cross-border investment throughout the EU.

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Background

In its most recent press release the Commission explains the mechanism and the term "**withholding tax**" by referring, for example, to the situation where an investor resident in one EU Member State is liable to pay tax on the interest or dividends earned in another Member State. This is often the case for cross-border investors. In such a scenario, to avoid double taxation, many EU Member States have signed double taxation treaties, which avoid the same individual or company being taxed twice. These treaties allow a cross-border investor to submit a refund claim for any excess tax paid in another Member State.

The Commission recognizes that these refund procedures are often lengthy, costly, and cumbersome, causing frustration for investors and discouraging cross-border investment within and into the EU. Currently, the withholding tax procedures applied in each Member State are very different. Investors have to deal with more than 450 different forms across the EU, most of which are only available in national languages. The Cum/Ex and Cum/Cum scandals have also shown how refund procedures can be abused: the tax losses from these practices have been estimated at €150 billion for the years 2000-2020.

The key actions proposed by the Commission are:

A common EU digital tax residence certificate which will make withholding tax relief procedures faster and more efficient.

Two fast-track procedures complementing the existing standard refund procedure: a "relief at source" procedure and a "quick refund" system, which will make the relief process faster and more harmonized across the EU.

A standardized reporting obligation which will provide national tax administrations with the necessary tools to check eligibility for the reduced rate and to detect potential abuse.

Next steps:

Once adopted by Member States, the proposal should come into force on 1 January 2027.

More detailed information to be found **here** (Press release of 19 June 2023, with additional links).

Keywords

Fraud, withholding tax