Keeping up with Tax Banking and Capital Markets

Spring 2022

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Introduction

Welcome to the Spring's edition of Keeping up with Tax for Banking and Capital Markets, picking up on a range of current hot topics relevant to our industry.

In this release we cover the latest tax developments that require our industry's attention – Pillar II as well as ATAD III including a tax management function: the reclaim process.

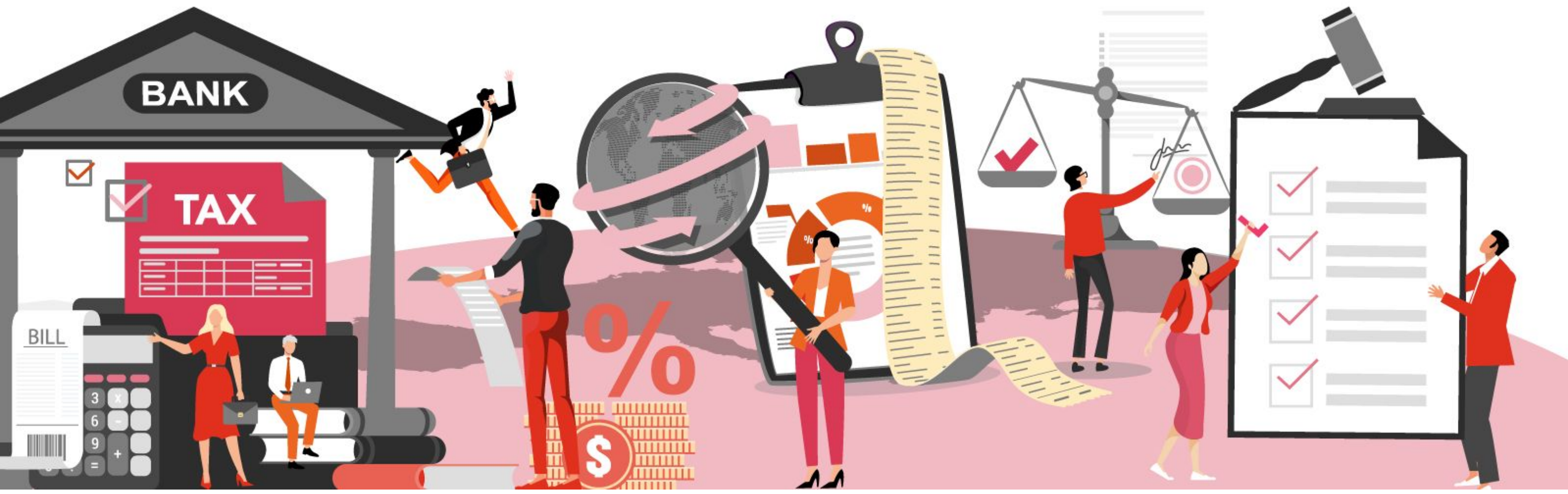
Specifically, the articles cover the following areas:

- Tax challenges arising from the Digitalisation of the Economy - Global Anti-Base Erosion Model Rules (Pillar Two in a Nutshell) as released by OECD and the European Commission's Directive proposal;
- ATAD 3 in a nutshell; and
- Why a tax management function such as tax reclaims is essential and deserve more attention today and even more tomorrow?

Please get in touch with me or your regular PwC contacts if you want to start a conversation with us. Don't hesitate to let us know if there are any topics that you would like us to cover in upcoming editions.

Kind regards,

Roxane Haas & Murielle Filipucci



Murielle Filipucci
Partner, Global Banking & Capital Markets Tax Leader
E: murielle.filipucci@pwc.com

Roxane Haas
Partner, Luxembourg Banking & Capital Markets Leader
E: roxane.haas@pwc.com

Tax challenges arising from the digitalisation of the economy as released by OECD and the EU directive proposal (Pillar II)

In brief

The Pillar Two Model Rules (also referred to as the "Anti Global Base Erosion" or "GloBE" Rules), released on 20 December 2021 are part of the Two-Pillar Solution to address the tax challenges of the digitalisation of the economy that was agreed by 137 member jurisdictions of the OECD / G20 Inclusive Framework on BEPS and endorsed by the G20 Finance Ministers and Leaders in October. These Model Rules cover the income inclusion rule (IIR) and undertaxed payment rule (UTPR) and have been designed to ensure large multinational enterprises (MNEs) pay a minimum level of tax on the income arising in each jurisdiction where they operate.

Then, on 22 December 2021, the European Commission (EC) published its proposal for a Council Directive "on ensuring a global minimum level of taxation for multinational groups in the Union" (draft directive) aimed at implementing the OECD Pillar Two Model Rules on a 15% minimum effective tax rate in the EU Member States.

The Draft Directive closely follows the OECD Model Rules, which set out the rules of the so-called IIR and UTPR (which are explained in more detail below). However, it departs from the Model Rules "with some necessary adjustments, to guarantee conformity with EU law". The major key differences are:

- There is an extension of the IIR to "large-scale" purely domestic groups with consolidated revenues of at least EUR 750 million in at least two of the four preceding years (however, transitional rules provide for a zero-rate application of the top-up tax due for the first five years of application of the rule);
- The application of the IIR by an Ultimate Parent Entity (UPE), Intermediate Parent Entity (IPE) or Partially Owned Parent Entity (POPE) is extended also to the low-taxed constituent entities located in the same Member State (including the said UPE, IPE or POPE).

No EU Action is provided at this stage with regard to the related OECD Pillar Two Subject-to-Tax Rule (STTR). The OECD during the month of March released a set of commentary and examples with respect to Pillar II dispositions.

In detail

Scope of application

The GloBE Rules will apply to multinational enterprises (MNEs) having a revenue of at least EUR 750 million on their annual consolidated financial statements in at least two of the four fiscal years immediately preceding the relevant fiscal year. Should a MNE fall within the scope of GloBE Rules, the Constituent Entities of the MNE group, will be as well. A Constituent Entity may be defined as any entity or permanent establishment that is part of the MNE.

However, some entities are carved-out from the scope of the OECD / European Union draft directive proposal such as:

- Government bodies, international organisations and non-profit organisations;
- Pension funds itself and where they head up groups, investment funds or real estate investment vehicles;
- Investment or ancillary vehicles which are 95% owned directly or indirectly by an excluded entity; and
- Other investment entities subject to special rules (such as difference in the legal qualification of the entity)

The Key operative provisions that every in-scope MNE would apply

The tax imposed under the GloBE Rules is a "top-up tax" (TPT) calculated and applied at a jurisdictional level. The GloBE Rules use a standardised base and definition of covered taxes to identify those jurisdictions where an MNE is subject to an effective tax rate (ETR) below 15%. It then imposes a coordinated tax charge that brings the MNE's effective tax rate on that income up to the minimum rate.

How to compute the effective tax rate?

In order to know if top-up tax is owed, rules are needed to calculate the ETR in each jurisdiction where the MNE operates. This requires first a calculation of the income and then a calculation of the covered tax on that income.

The starting point to determine the **aggregated adjusted income** will be the net income or loss reported in the consolidated financial statements of the UPE, subject to certain adjustments (for instance gains on exempted income such as dividends, equity gains and so on will be deducted from the net income. Conversely, losses resulting from the same transactions will be added back). The **covered taxes**[1] are the current tax expense accrued for financial accounting net income or loss with some adjustments tax accruals in profit before tax and deferred tax expense or income booked in the accounts.

As a result, the ETR is computed by dividing the covered taxes with the GloBE income for each related jurisdiction.

1. For completeness, covered taxes regarding Luxembourg entities include the following: Corporate Income Tax, Municipal Business Tax, Net Wealth Tax, Withholding Tax on dividends allocated to the distributing entity and taxes due to Controlled Foreign Company (“CFC”) rules.

In this context, in case an in-scope MNE is subject to an effective tax rate below 15% in its own jurisdiction, a jurisdictional TPT[2] will be computed and will therefore be imposed on a group entity under an IIR or UTPR mechanism.

The primary rule is the IIR. Under the IIR, the minimum tax is paid at the level of the parent entity, in proportion to its ownership interests in those entities that have low taxed income.

Generally, the IIR is applied at the top, at the level of the UPE. Should the latter be located in a jurisdiction that did not choose to apply the IIR, based on a top-down approach, the highest Intermediate Parent Entity will apply the IIR and apply the top-up tax with respect to constituent entities located in low-taxed jurisdiction. As a result, the IIR is applied at the top and works its way down the ownership chain. [3]Rules are also provided to allow the IIR to be applied by a parent entity in which there is a significant minority interest, to minimise leakage of low taxed income.

A backstop is needed to ensure the minimum tax is paid where an entity with low taxed income is held through a chain of ownership that does not result in the low-taxed income being brought into charge under an IIR. This backstop is UTPR. This rule works by requiring an adjustment (such as denial of a deduction) that increases the tax at the level of the subsidiary. The adjustment is an amount sufficient to result in the group entities paying their share of the top-up tax remaining after the IIR.

As mentioned above, the TPT is being charged under the IIR or the UTPR to ensure co-ordinated outcomes. However, given that there will typically be subsidiaries in several different jurisdictions, the UTPR requires a higher level of administrative co-operation, which underlines the importance of standardised information reporting requirements. This is also one of the reasons the UTPR is a backstop rather than the primary rule.

2. The jurisdictional TPT amount is the difference between the 15% GloBE tax rate and the ETR applied to an amount of excess profit equal to net GloBE income minus the substance based income exclusion for that jurisdiction.
3. Remark: In case of split-ownership situations, a Partially Owned Parent Entity (“POPE”) that owns directly or indirectly more than 20% in its profits held, will be entitled to apply the top-up tax over a constituent entity of the group.

The draft directive in a nutshell: some deviations

The implementation provisions of the Draft Directive closely follow the OECD Model Rules. However, they depart from that document in certain aspects, in the Commission's words, "with some necessary adjustments, to guarantee conformity with EU law" and "to provide taxpayers with legal certainty that the new legal framework is compatible with the EU fundamental freedoms, including the freedom of establishment".

- **The draft directive extends the application of the IIR to so called "large-scale domestic groups"** : The Pillar Two Draft Directive provides for the extension of the scope of the IIR not only to an MNE group having at least one entity or a permanent establishment not located in the same jurisdiction of the UPE, but also to a so called 'large-scale domestic group,' namely an MNE group of which all constituent entities are located in the same Member State with an annual revenue of EUR 750 million or more in its consolidated financial statements in at least two of the last four consecutive fiscal years.
- **The Draft Directive extends the application of the IIR by an UPE, IPE or POPE to the low-taxed constituent entities located in the same Member State:** Based on the OECD Model Rules, the jurisdiction which applies the IIR shall apply the top-up tax only to the foreign low-taxed constituent entities. The Draft Directive differs by providing in addition that where an UPE, or in certain specific cases, an IPE or POPE located in a Member State is itself a low-taxed constituent entity, it shall be subject to the IIR top-up tax together with its low-taxed constituent entities located in the same Member State of which it is a resident.
- **The Draft Directive extends the UTPR temporary exclusion in favour of MNEs in the initial phase of their international activity to the IIR as well** : The OECD Model Rules provide for an exclusion from the application of the UTPR for small MNE groups in the initial phase of their international activity provided that such MNE Group: (i) has Constituent Entities in no more than six jurisdictions, and (ii) the sum of the Net Book Values of Tangible Assets of all Constituent Entities located in all the jurisdictions excluding the Reference jurisdiction (being the jurisdiction with the highest total of tangible assets) does not exceed EUR 50 million. In the Draft Directive, the abovementioned exclusion is extended to the application of the IIR. This additional exclusion, whilst deviating from the OECD Model Rules ensures consistency with the 'large scale domestic groups' provision referred to above.
- **The Draft Directive provides an option for the Member States to adopt a 'qualified' domestic top-up tax:** The Draft Directive provides an option for the Member States to elect to apply a 'qualified' domestic top-up tax. The definition of 'qualified domestic top-up tax' provided in the Draft Directive is consistent with the corresponding definition provided in the OECD Model Rules. In particular, it refers to domestic rules ensuring a minimum effective tax rate in accordance with the rules laid down in the Draft Directive without allowing for any additional 'benefits' related to the said rules. Member States applying the election for the domestic top-up tax have to notify this choice to the Commission within four months following its adoption. If a constituent entity of an MNE Group is located in a Member State that adopts the qualified domestic top-up tax, such constituent entity shall pay the top-up tax to its Member State.
- **The Draft Directive sets out the rules under which the legal framework of a third country jurisdiction shall be considered as equivalent to the EU GloBE's IIR.** The Draft Directive specifies under which circumstances a foreign (i.e. non-EU) IIR implemented by a third country jurisdiction can be considered 'equivalent' to the EU GloBE's IIR for purposes of the interaction between the two sets of rules. In particular, the equivalence assessment, which will be performed by the Commission, is met if the following conditions are fulfilled by the non-EU IIR:
    - it provides for a set of rules where the parent entity shall compute and collect its allocable share of top-up tax in respect of the low-taxed constituent entities of the MNE group;
    - it provides for a minimum effective tax rate of at least 15%;
    - it allows only the blending of income of entities located within the same jurisdiction; and
    - it provides for relief for any top-up tax that was paid in a Member State in application of the IIR set out in the Draft Directive.

The European Union, with respect to the draft directive on ensuring a global minimum level of taxation for multinational groups in the Union, opened a consultation where stakeholders may provide their feedback up to 6 April 2022. Member States are required to transpose internally the directive by 31 December 2022 at the latest.

Takeaway

The OECD as well as the EU directive proposal provides policy makers with an ambitious deadline to adapt their international tax rules with an entry into force of the IIR by 2023 and of the UTPR by 2024. However, the complexity of the calculation and allocation of the top-up tax as well as the lack of more detailed guidelines makes the implementation difficult.

The desire to introduce a fairer tax regime, both in the European Union and within the 137 jurisdictions of the OECD that have signed the Inclusive Framework, is well present, binding MNEs' group entities to be taxed at a minimum of 15%. Even if the OECD Pillar Two model rules and the European directive proposal are similar, the slight differences in the two models add an additional layer of complexity.

From a compliance tax perspective, a constituent entity will have to file within the 15 months following the end of the fiscal year, a standardised GloBE Information Return, or a top-up tax return under the European directive proposal (extended to 18 months for the first transitional year). However, should the UPE or another constituent entity of the group have already filed such return, other constituent entities would be exempt to the extent that a bilateral or multilateral agreement concluded between two or more jurisdictions, provides an exchange of information. This additional reporting obligation introduces additional filing obligations for taxpayers and implies strong cooperation and discussion with the tax authorities.

However, in order to reduce the compliance and administrative burden, safe harbours rules may be opted by jurisdictions. Constituent entities of a jurisdiction that has opted for safe harbour provisions will not have to calculate the GloBE ETR calculation, as the minimum tax rate would be deemed to be above the 15% minimum rate. As a result, the top-up tax for the safe harbour jurisdiction is considered to be zero. Nevertheless, tax authorities may challenge the application of the safe harbour 36 months following the filing of the GloBE Information Return. The constituent entity would have to prove that it satisfied the GloBE ETR test, otherwise its right to take advantage of the safe harbour rules will be denied.

Luxembourg team

Wim Piot
Partner
E: wim.piot@pwc.com

Murielle Filipucci
Partner Global Banking & Capital Market Leader
E: murielle.filipucci@pwc.com

Philippe Ghekiere
Director
E: philippe.ghekiere@pwc.com

Laura Maniglia
Senior Associate
E: laura.maniglia@pwc.com

Juliette Le Prat
Associate
E: juliette.le.prat@pwc.com

ATAD 3 in the nutshell

The EU Commission's proposal for a council directive (the "Directive") laying down rules to circumvent the misuse of so-called "shell entities" was released on 22 December 2021 (the "Proposal"). The Proposal is expected to be adopted in the first quarter of 2022. The aim is that Member States transpose the Directive into domestic law by 30 June 2023, with the rules applying as early as from 1 January 2024.

The Proposal introduces new reporting obligations that may result in the denial of tax advantages to EU entities that are deemed to have no or minimal substance. Such qualification may lead to the denial of Double-Tax Treaty ("DTT") benefits, the removal of access to EU directives (such as the Parent-Subsidiary or the Interest Royalty Directives) as well as a re-allocation of taxing rights.

A welcome development for Luxembourg's financial institutions has been introduced in Article 6 of the Directive. Indeed, the Proposal intends to provide for explicit exclusions from reporting obligations for companies listed on a regular stock exchange and regulated financial institutions, such as banks and payment institutions.

It should be noted that undertakings operating purely domestically and undertakings with more than five employees involved in the operations are also excluded.

Undertakings that meet the following cumulative "gateways" are considered at-risk undertakings:

1. Undertakings that derive most (more than 75 percent) of their income from passive sources, such as rents, royalties, interest (including those from crypto assets), dividends, etc.
2. Undertakings that are mainly (more than 60 percent) engaged in cross-border activities; and
3. Undertakings that outsource most of their operations/administration and that do not have adequate resources to perform core management activities.
4. Accordingly, an undertaking that cumulatively fulfils all three of the aforementioned gateways will be subject to reporting obligations.

An at-risk undertaking can request an exemption from the reporting obligation if it can prove that it does not reduce the tax liability of its beneficial owner(s) or of its group. This exemption will first be granted for one year with the possibility of extension, upon request, to five years.

Undertakings crossing all gateways will have to report information in their annual tax return in relation to "substance indicators," namely, whether an undertaking has:

1. ts own premises for its exclusive use;
2. An active bank account in the EU;
3. At least a local director who is adequately qualified and authorised, or local full-time employees.

In the case of an at-risk entity, it will be presumed to be a shell company if it fails at least one of the above substance indicators. An undertaking presumed to be a shell may be able to rebut this presumption if it proves that it has control over its activities and bears the risks of the activities that generated the relevant income or, in the absence of income, its assets.

It should be mentioned that the Proposal also provides for the automatic exchange of reported information between Member States through existing mechanisms of administrative cooperation.

Finally, regarding the tax consequences. entities considered as shell entities will be refused access to DTTs or EU directives (particularly the Parent-Subsidiary and Interest-Royalty Directives) by any other Member States. This may lead to withholding taxes on payments made to shell entities and taxation of the shell company's shareholder(s) on a look-through basis, as if it had directly accrued to the shareholder(s).

Luxembourg team

Murielle Filipucci
Partner Global Banking & Capital Market Leader
E: murielle.filipucci@pwc.com

Afif Hamdi
Manager
E: afif.hamdi@pwc.com

Why a tax management function such as the tax reclaims is essential and deserve more attention today and even more tomorrow?

In brief

In today's global economic context, the actors of the Financial Institutions are experiencing pressure on their investment performance and margins. To remain competitive, these players are launching initiatives focusing on investment strategies, costs reduction and offering/ pricing strategies. One pragmatic solution with direct impacts on investment performance, investors/client's satisfaction and cost management is management optimisation of the withholding tax applied on the income derived from investments.

This solution, already offered to some extent by Custodian Banks and regularly requested by clients of Investment or Private banks, triggers many challenges due to the very complex and diversified withholding tax relief and reclaim procedures around the world. As an obvious illustration, in 2016 the European Commission estimated the foregone tax relief and opportunity costs under the scope of double tax treaties to a value of more than EUR 8.4 bn annually. This amount is significantly higher when considering European caselaw ad National law based reclaims.

It has always been important to focus on operational taxes and for the dedicated scope of withholding taxes, we see an acceleration over the last years requiring from the banks to develop a robust framework to tackle these burdensome withholding tax relief and reclaim procedures as well as their related challenges.

The latest challenge that is coming under Banks responsibilities at least for those which are offering an in-house tax reclaim service is ATAD3 that we illustrated in the preceding article[4].

In details

Why do you need to focus on it now?

Tax reclaims have always been a complex topic as tax authorities require more and more transparency on the designation of the beneficial owner, the numerous stakeholders involved in the chain of payment need to align, the non-harmonization of procedures across countries, etc.

4. *"Why banks need to continue to focus on operational taxes now more than ever"* – July 2021 edition

How to achieve HTV tax relief at source/reclaims in a nutshell?

- **Double Tax Treaty ("DTT") based reclaims**

With the application of the bilateral treaty concluded between two countries, the eligible resident is required to submit a relief-at-source application to have the correct withholding tax rate applied or a refund claim to get the excess tax withheld back. When applicable, the withholding tax applied on the incomes derived from the investments significantly decrease the net return on income (generally from 15% to 30% for dividends) and therefore recovering the excess of tax based on the reduced DTT rate helps to increase the return on investment. Such procedures are requiring eligibility criteria that are wide and burdensome and for which administrative processes are heavy, mainly on paper and requiring a meticulous management of the documentation and data collection.

- **European case law based reclaims**

The withholding tax reclaim based on the EU cases laws (so-called "Fokus reclaims") is an opportunity for investment funds, Life-Insurance companies or Institutions for occupational retirement provision (IORPs) to recover in most of the case up to the full withholding tax borne on dividends and interest in some EU / EEA countries (where a discrimination on the free movement of capital is seen). In general, it is necessary to have a legal representative residing in the investment country, and a strong tax expertise for the elaboration of the argumentation.

- **National law based reclaims**

The possibility to reclaim the unduly paid withholding tax on dividend is also possible by using the domestic provisions of the national law of the investment country.

While the operational process could be like the other types of reclaim procedures these particular reclaims are based on the national law of the country in question and would require a detailed knowledge and understanding of a foreign law.

Keeping a close eye on the tax reclaims' activity will further increase in importance over the short to medium term. Lately, there have been several factors contributing to this: the recent developments within the EU caselaw based reclaims area, notably in Italy, the new CSSF Circular 20/744 which is a complement to the Circular CSSF 17/650 and TRACE, the new regulation that will increase responsibility to financial institutions.

All these developments are showing that operations related to withholding tax reclaims as well as the outsourcing of such activities are at different levels a challenging topic with multiple layers of complexity.

What developments and challenges have we seen?

1. A constantly changing tax framework: e.g., Fokus reclaims in Italy

On 7 February 2022, the Pescara Tax Court of First Instance ruled that a Luxembourg SICAV is comparable to an Italian investment fund and, therefore, it entitled to the refund of the full withholding tax suffered on the dividends received from Italian companies, which means that the Luxembourg SICAV would be entitled to the refund of the full withholding tax suffered on the dividends received from Italian companies.

This judgment has a fundamental importance as it represents the first official confirmation by an Italian tax court of the discriminatory tax treatment suffered by foreign investment funds in Italy on the dividend payments received.

Last year, the European Commission sent a letter of formal notice to France urging to change its withholding tax rules on dividends paid to Unit Linked Insurance companies established in other European Economic Area (EEA) Member States and when reviewing the reclaim introduced by a British life insurance company, the Council de France indeed stated that the difference in the taxation of dividends is likely to constitute an infringement of the free movement of capital, which constitutes a strong encouragement for European insurance companies to continue filing withholding tax reclaims based on EU cases laws.

These decisions show the obligation to be up to date on tax reclaims news. In addition to the complex process, not having reclaims expert in the area of the said reclaims can bring complexity to the claimants to understand and determine the subtleties of each country requirement in term of tax residence definition, comparability characteristic among the investment vehicles, etc.

Whether on reclaims based on European, DTT or national law, it should be noted that each country has its own tax reclaim procedure, which vary in complexity from one tax authority to another and from a financial institution to another. As a consequence, this leads to limited operational efficiency/consolidation when dealing with low volumes.

On top of this, significant volumes of documents provided by various stakeholders are required. These requirements are quickly evolving and vary across countries. An excessive amount of dedicated resources and time are spent on these documentation collection, reconciliation, validation and mailing processes, which prevent financial institutions to focus on their core activities and stay efficient on these functions.

2. CSSF Circular – AML tax fraud and Tax Function within the AM industry

On 3 July 2020, the CSSF issued the Circular 20/744 which is a complement to the Circular CSSF 17/650 related to the extension of laundering offence to aggravated tax fraud and tax swindle. With this Circular, the CSSF expands the list of indicators to specifically target the collective investment activities and the professionals providing services in the Asset Management sector. The CSSF expects professionals under its AML / CFT supervision to take these new indicators into account and to build / reinforce their tax function and increase the governance oversight.

The new indicators are now fully part of the AML controls done by the CSSF during their onsite visits, as it was already done within the Circular 18/698 framework. The first visits took place in mid-2021 and the CSSF already prepared several remediation letters to the actors in this framework.

Therefore, when tax reclaims functions are delegated to bank institutions, the clients from the asset management will require more evidence of controls, status report and key performance indicators to justify a correct governance on their tax risks, both at corporate and managed funds levels.

In view of the above, financial institutions are required to develop reporting tools allowing to manage the information based on a robust data quality framework, share transparent overall and detailed status of their tax reclaim process.

3. Increasing responsibilities moved to the financial institutions: TRACE

It has always been complicated for portfolio investors to effectively reclaim the reduced rates of withholding tax due to, among others, administrative barriers. The OECD Treaty Relief and Compliance Enhancement (TRACE) initiative launches the framework of a standardised system allowing the reclaiming of withholding tax relief at source on portfolio investments. This will help minimise administrative costs for all stakeholders and allow them to ensure proper compliance with tax obligations [5] .

When TRACE suggests a commitment for future harmonisation and will allow digitalisation, this will however increase the legal liabilities and responsibilities of the financial institutions with the Authorised Intermediary status as they will be the main actor of such tax reliefs.

5. *TRACE: Finland gets the ball rolling* - March 2021 edition.

Since the new system was implemented in Finland on 1 January 2021, we already saw key financial institutions who choose to change their market offering by not implementing relief at source of Finnish dividends anymore as they are not willing to cope with an increased risk exposure, legal liabilities and responsibilities.

Although the implementation of TRACE will be limited in the coming years, following the emergence of the so-called "cum-cum" and "cum-ex" systems, which have given rise to significant tax evasion and avoidance, tax authorities have become increasingly cautious and eager to ensure compliance with tax obligations and to avoid exploiting weaknesses in national or treaty tax provisions, particularly when it comes to identifying the beneficiary of income. Acting as first, on the provision of financial documentation and sometimes the preparation of reclaim forms, financial institutions need to define a robust control framework and identify red flags at every step of the process.

How should you react to this?

While it is the obligation of the tax applicant to understand the duties and tax requirements when requesting the implementation of relief at source or a reclaim of an unduly withholding tax levied, it also imposes substantial compliance obligations upon the financial institutions involved by, among others, implementing extra-checks before the payment of the incomes, deploying a robust data quality procedure and, replying to the tax requirements of the tax authorities. Such obligations require to be the gatekeepers of the financial and tax system and take a more involved role. This can generate some risks for the financial institutions such as: operational risk due to complexity and the charge of the tax administration requirements, manual and burdensome processes, reputational and legal risk of failure to meet the tax authorities' requirements.

We understand the challenges that are facing the financial institutions as they must manage the tax operations with various stakeholders, taking into consideration numerous obligations and requirements and can therefore encounter lack of efficiency when facing such issues and initiating new development, which generates not negligible costs.

Besides, it is more than complicated to stay up to date on the various new legislations / legal developments without creating a specific watch with dedicated trained tax experts.

When (re)designing the tax reclaims operations, the financial institutions should consider stream-lined deployments focusing on it:

- A robust governance supported by robust risk management: given all the channels affected by the operational tax system, the governance in place must integrate transversal functions to create synergies between the area of operations, AML, risk management, reporting, data management and finance and act as a support structure for management and compliance. In addition, it is paramount to have a control framework and risk management processes to identify red flags and define mitigating actions along the entire process.
  Reliable and accurate data quality management: you must be sure that the information in your systems is correct, reliable and timely updated to run efficiently withholding tax reclaim or relief operations and to capture the full potential of reclaimable amount with a clear strategic spotlight on how data is handled through people's responsibilities, processes and IT systems.

- Clear and documented operational processes: this provides up to date and transparent guidelines on how relief at source/refund application should be prepared considering specificities across investment countries and type of claims. This will define the roles and responsibilities of the dedicated people in charge among the organisation and give more clarity on the investments in technology that would be required.

- Smart and efficient tax operating model to cope with increasing volumes and complexity: when designing your tax operating model, it is paramount to target efficiency gains and agility to adapt to ever changing reclaim procedures and requirements. For example, setting up delegation of tax reclaims operations to specialised service providers can help you tackle operational challenges in the different phases of your tax reliefs/reclaims.

- Dedicated tax functions with a good balance of tax expert and operational profiles: tax experts help financial institutions to understand and comply with the requirements, avoiding multiple risks and assessing the impacts. Specialised operational tax teams can relieve resources and offer stability in the tax reclaim process of their clients and allow to concentrate on the core business activities.

- Anticipation of the client's expectations: the demands of clients are increasing in pace and complexity. Demonstrating that you understand your clients' needs is a cornerstone of the business development strategy. By showing awareness on the tax consequences within you and your clients' structures, developing reporting and indicators on the monitoring of the portfolio taxation, you will create full transparency to your internal stakeholders and clients in order to anticipate their needs and provide feedback.

Takeaway

Staying up to date on tax news and opportunities, understanding every specificity of each tax reclaim process and complying with tax authorities' requirements and the client's expectations at the same time can sound like a tricky mission for financial institutions and generate substantial risks for them.

Of course, there are several ways to tackle these heavy procedures and ease financial institutions' operations, and this could be the right time to assess your tax reclaims' strategy and rethink the model in place. Looking at the future with for example ATAD3, we clearly see additional complexities and risks that Financial Institutions should carefully anticipate and manage.

Luxembourg team

Murielle Filipucci
Partner Global Banking & Capital Market Leader
E: murielle.filipucci@pwc.com

Pierre Kirsch
Partner
E: pierre.kirsch@pwc.com

Sidonie Braud
Partner
E: sidonie.braud@pwc.com

Julie Chaidron
Director
E: julie.chaidron@pwc.com

Alexandre Hick
Director
E: alexandre.hick@pwc.com

Armelle Dath
Senior Manager
E: armelle.dath@pwc.com

Robin Bernard
Senior Manager
E: robin.bernard@pwc.com

Contacts

For additional information please contact

Murielle Filipucci
Partner, Global Banking & Capital Market Leader
E: murielle.filipucci@pwc.com

Wim Piot
Partner
E: wim.piot@pwc.com

Philippe Ghekiere
Director
E: philippe.ghekiere@pwc.com

Afif Hamdi
Manager
E: afif.hamdi@pwc.com

Sidonie Braud
Partner
E: sidonie.braud@pwc.com

Alexandre Hick
Director
E: alexandre.hick@pwc.com

Robin Bernard
Senior Manager
E: robin.bernard@pwc.com

Roxane Haas
Partner, Luxembourg Banking & Capital Markets Leader
E: roxane.haas@pwc.com

Laura Maniglia
Senior Associate
E: laura.maniglia@pwc.com

Juliette Le Prat
Associate
E: juliette.le.prat@pwc.com

Pierre Kirsch
Partner
E: pierre.kirsch@pwc.com

Julie Chaidron
Director
E: julie.chaidron@pwc.com

Armelle Dath
Senior Manager
E: armelle.dath@pwc.com

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