

# Simplified procedures for claiming cross-border withholding tax relief



On 19 October 2009, the Commission adopted a **Recommendation on withholding tax relief procedures**<sup>1</sup>. It calls upon Member States to develop simpler and cheaper procedures, so that it becomes easier for an investor residing in one EU Member State to claim withholding tax relief on dividends received from another Member State.

## Withholding tax

When companies (or banks on their behalf) pay dividends to their investors, they have to hand out a percentage of these dividends, between 10 – 25%, to national tax authorities. In many cases foreign investors are entitled to claim back part or all of this so-called 'withholding tax'. A recent Commission study, however, revealed that foreign investors often fall victim to long procedures and in some cases miss out on reimbursement altogether. The costs related to current reclaim procedures, which can be lengthy and cumbersome, are estimated at € 1.09 billion annually, whereas the amount of unclaimed tax relief is estimated at € 5.47 billion annually.

To address this issue, the Commission recommends that 'withholding tax relief' should be granted at source, i.e. immediately. Where the other approach – the refund approach – is unavoidable, for instance in cases where not all the investors' data are available, the Commission recommends Member States to apply quick and standardised refund procedures, and lists various possibilities.

The Recommendation encourages Member States to switch to accepting electronic rather than paper information. It also suggests measures to eliminate tax barriers that face financial institutions in their securities investment activities while ensuring that tax revenues are protected against errors or fraud. The Recommendation is designed to provide guidance to Member States on how to ensure that procedures to verify entitlement to tax relief do not hinder the functioning of the Single Market.

## Background

The Recommendation is based on a large variety of sources: The (2006-2007) reports of the Clearing and Settlement Fiscal Compliance Experts Group (FISCO); experience from Member States and extensive consultation with industry, tax administrations and the Organisation for Economic Co-operation and Development (OECD). The OECD works on this issue in parallel, with the aim of achieving a result at global level.

## Work in progress

It is the first time in nine years that the Commission has issued a Recommendation in the tax area. It is not a legally binding document, but it gives clear guidance on how withholding tax relief procedures could be modernised and developed further. Its purpose is to stimulate debate and to provide a forum for further discussion.

### Info

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<sup>1</sup> The Recommendation, the underlying study on 'The Economic Impact of the Commission Recommendation on Withholding Tax Relief Procedures and the FISCO Proposals' and other background documents are available at: [http://ec.europa.eu/internal\\_market/financial-markets](http://ec.europa.eu/internal_market/financial-markets)