Tax Withholding News

Page 1 | Issue No. 18 | June 2015 prepared by GLOBETAX

In This Issue

GlobeTax was the Platinum Sponsor at the WFC Conference in Cancun, Mexico.

Maximizing Pension Returns: Global Issues

Two significant trends in retirement investment administration today are: (i) a general shift toward a greater global equity allocation due to a historically low yield environment for fixed income investments, and (ii) the increased use of collective investment trusts (CITs) in lieu of mutual funds within 401(k) plans. As a result, pensions and other retirement vehicles now have a greater need for relief from over-withheld tax on cross border investment income.

Retirement plan sponsors are held to a high standard of care as fiduciaries of the plans they sponsor. This has been the case for many years under US ERISA rules. That standard was made clear to be even higher than many may have appreciated by the US Supreme Court's recent ruling on *Tibble v. Edison International*. The Court's decision made clear that duty extends to ensuring that the plans and the assets within are properly serviced. With the US Department of Labor's (DOL) proposal to expand the definition of "fiduciary," the issue of foreign tax reclamation is becoming increasingly relevant and its impact more widely felt.

Furthermore, as CITs continue to gain popularity in 401(k) plans, the potential for over-withholding of foreign tax increases substantially. As a pooled group of trust accounts, CITs have need for accurate and thorough document collection and management, which is vital when making applications to foreign tax authorities to recover over-withheld foreign tax. While foreign tax authorities usually view a mutual fund as the beneficial owner of an entitlement, CITs can be considered transparent entities and often must substantiate the residency and status of the underlying investors within the vehicle. This complexity has created difficulties for investors seeking their legal entitlements, often resulting in money being left on the table.

Pensions that recover foreign withholding tax can add 45 bps to portfolio performance

Pensions Entitled to Full Recovery of Withheld Taxes in These Markets

Australia	Japan
Belgium	Mexico
Canada	Netherlands
Denmark	Sweden
Finland	Switzerland
Germany	United Kingdom
Ireland	

As pensions continue to increase their equity allocations, diversify internationally and dividends continue to rise, recovery efforts become more and more important to performance. As noted by *Pensions & Investments*, PG&E's $11 billion pension plan and the $45 billion Massachusetts Pension Reserves Investment Management board moved to a 100% global equities allocation (a move away from fixed income). For these institutions and other funds with significant cross-border investments, the increased pressure to maximize returns, along with increased scrutiny by regulators, means it is vital that fiduciaries – including as expanded by the proposed regulation – ensure that foreign tax reclamation is being addressed. For a US pension, the loss on unrecovered foreign tax withholdings is estimated to be 45 basis points for the international component of a typical portfolio.

continued on page 2...

An Often Overlooked Benefit of Managed Accounts

A common hurdle for institutional investors in commingled vehicles seeking to recover cross-border tax entitlements is the need for the fund manager to participate in the reclaim process. The fund is the recognized owner of the securities, and in turn the entitlements. Thus, limited partners are prohibited from lodging reclaims on their own.

One way around this hurdle is for asset allocators to invest through managed accounts. To be sure, not all fund managers offer managed accounts as an option and some that do require investments to be of a certain size. For a growing segment of institutional investors that seek such vehicles however, these structures offer asset control and ownership that minimizes transparency and liquidity concerns. Further, as a by-product of ownership, the institutional investor may seek cross-border tax relief without the participation of the asset manager.

US tax-exempt investors are often entitled to exemption overseas and in such instances can seek to recover the entire dividend withholding. Many commingled funds have not availed themselves of the tax reclamation process, collectively leaving billions in entitlements on the table. For those funds that are engaged, many don't reach out to their underlying tax-exempt investors to gather the necessary documents to qualify for exemption, hence, the fund manager does not maximize the recovery. If, however, the tax-exempt investor has a managed account, it could reap 100% of the maximum benefit as the sole beneficiary of the entitlements.

One caveat is that there would be no entitlements to reclaim if the managed account is structured as an offshore corporation (Cayman, BVI, etc.), as these tax "haven" jurisdictions have no bilateral tax treaties and the corporation essentially serves as a corporate blocker. If, however, the vehicle were US domiciled or structured as an offshore LP or LLC, the beneficial owner could avail themselves to applicable treaty benefits. In the case of an LP or LLC the entity could be "looked-through" to lodge claims on behalf of the underlying investor(s).

In summary, demand is growing for managed accounts for the more obvious liquidity and transparency concerns, but as investors weigh the pros and cons of what structure best suits their needs, they should also consider the added benefit of direct entitlement to cross-border tax reclaims and the ease of implementation for managed accounts.

Maximizing Pension Returns: Global Issues
(continued from page 1)

In many markets where the US has a double taxation treaty in place, pensions and 401(k) plans are eligible to recover the entire withheld tax. Additionally, as statutes of limitation can range from two to seven years, the need to file on a timely basis is critical and the initial recovery can provide a meaningful windfall to the fund and its investors.

eTaxData Online powered by GLOBETAX

Market Updates*

Updates reflect changes made through May 31, 2015.

Austria: **Proposed** to be effective January 1, 2016 statutory withholding tax rate applicable to dividends will increase from 25% to 27.5%.

Canada<->UK: Effective January 1, 2015 a 0% tax rate on dividends applies if the beneficial owner is a pension plan that is generally exempt in its country of residence and does not own more than 10% of the capital or voting power of the company paying the dividend.

Finland: Effective June 1, 2014 interest paid along with Long Form claims.

Russia: Effective January 1, 2015 15% punitive rate eliminated. Disclosure still technically required for those receiving 15% withholding tax rate on dividends.

Spain: Effective January 1, 2015 statutory withholding tax rate applicable to dividends will be reduced from 21% to 20%. Effective January 1, 2016 statutory withholding tax rate applicable to dividends will be further reduced to 19%.

Sweden: Effective January 1, 2015 interest paid along with Long Form claims. EDS deadline extended from 1 to 4 business days.

For information on subscribing to our data services, please e-mail: eTaxDataOnline@GlobeTax.com

**Not an exhaustive list*

Tax Withholding News

 prepared by GLOBETAX

WFC 2015 Conference Digest

Last month, The World Forum of CSDs (WFC) hosted 219 senior management delegates from 72 countries in Cancun, Mexico to discuss the current state of the CSD space and future challenges and innovations. Regulation was cited in virtually every presentation, underscoring the scale of this issue: T2S (which, it was pointed out, is NOT a regulation), CSD-R, EMIR, AIFMD, MiFID II and Securities Law Directive, Basel III, UCITS V and FATCA were only some of the ones mentioned. A core role of CSDs is clearing and settlement, so another critical issue is the current settlement cycles of T+3 and T+2. The fact that the US is still at T+3 (expected to get to T+2 by 2017) and Europe is on T+2, creates problems that need to be addressed. Even if everyone were on the same model, the question then becomes how far can, or should, we go? Is there an argument for T+0? Most thought it logical, but unrealistic in any short or medium term environment.

Monica Singer from South African CSD Strate gave two presentations on collateral management; the first focused on the industry's centralization of collateral management in a variety of innovative ways. Her second presentation explored one of South Africa's post-apartheid challenges: a young population that knows almost nothing about finance or financial services. Strate has spearheaded a non-profit online training portal called e-Tutor designed to give this generation a grounding in the industry as well as a route to qualifications. GlobeTax has offered to provide videos and other materials to help educate young people about withholding tax on an international scale. If you would like to provide material to this initiative please contact Education@GlobeTax.com.

Henri Bergstrom of NASDAQ gave a presentation on the opportunities and challenges facing CSDs where he maintained that this perfect storm of regulation (there's that word again) will probably have its casualties. The main issue, in the custody world as well as the CSD world, is that everyone is having to make sizeable investments to meet the regulatory overload, without any return - particularly in the realm of tax. While most agree the custody fee model is broken, no one is prepared to take the first step of going back to segregated pricing where a client can choose which service elements to accept based on the skill and experience of the

continued on page 4...

A selection of WFC 2015 tweets. For full listing please follow:

@GlobeTax
@RossKMcGill
@LenALipton

#WFCSD15

Bruce Lawrence @hblconsult · May 22
Exceptional tweeting from #wfcsd15 was almost as if we were there. Thanks to @RossKMcGill. @2015WFC, @ecsda. Safe travels home.

Mei Li Powell @MeMulanski · May 22
An open architecture ecosystem for collateral optimization + finance
@RossKMcGill: Urbain: we see Euroclear as a collateral highway #wfcsd15
View conversation

Ross K. McGill @RossKMcGill · May 22
Tessler: CSDs have a role to play in removing inefficiencies from the market #wfcsd15 moving next year on this to hedge funds

Ross K. McGill @RossKMcGill · May 22
Urbain: we should not underestimate the influence of technology on all our businesses #wfcsd15

2015 Forum of CSDs @2015WFC · May 22
Thank you @GlobeTax for a very Joyful Caribbean Lunch #wfcsd15

View photo

GlobeTax retweeted
Ross K. McGill @RossKMcGill · May 22
Many challenges and opportunities face #wfcsd15 members. Tax is at the forefront and is either embedded in or the object of much regulation.

WFC 2015 Conference Digest
(continued from page 3)

provider. CSDs taking tax services under consideration already start with an advantage. They have no baggage and can come up with more realistic, and interesting, products and pricing structures.

Of significance, there was discussion around the future for CSDs. There seemed unanimity in the belief that there will be some contraction in the number of CSDs which has been rising recently. This will be caused mainly by a lack of innovation or ability to compete. That led various panelists and presenters to observe that efficiencies in the core clearing and settlement obligations could only take CSDs so far. Many, including globeSettle of Luxembourg for example, are looking at their position in the market and the needs of their customers to identify value added service possibilities that would add high margin products to what is a low margin core business, particularly in a T2S environment. One speaker plainly said that many of these opportunities could be created operationally by independent firms, but would need to be delivered in partnership with CSDs. The mutualization of KYC documentation, an endeavor several firms are working on, was one example cited; it makes sense for a utility to offer that kind of service using a partner to provide the infrastructure or expertise.

WFC will next take place in 2017 in Hong Kong. We look forward to another great conference.

Upcoming Events

SIFMA DOL Fiduciary Seminar
New York, NY
June 3, 2015

SPARK National Conference
Washington, DC
June 7-9, 2015

SEI Connections Conference
King of Prussia, PA
June 9, 2015

USCIB-OECD Tax Conference
Washington, DC
June 10-11, 2015

APIC Conference
Dallas, TX
June 10-12, 2015

FRA PIF Tax Master Class
New York, NY
June 15-16, 2015

HFC East Coast Golf & Tennis Day
Greenwich, CT
June 22, 2015

SIFMA CAS Golf Tournament
Branchburg, NJ
June 22, 2015

For event information please visit GlobeTax.com/EventsEducation.aspx

Tax Withholding News
is published by Globe Tax Services, Inc. for the general information of our clients and business associates and should not be acted upon without prior professional advice.

If you have any inquiries or would like to have your name added to our distribution list, please contact us at:
Education@GlobeTax.com

Contributing Writers:
Len A. Lipton, Editor, Managing Director
Ross K. McGill, Editor, Managing Director

Jheramis A.H. Collado, Sr. Marketing Associate
Michael Finck, Managing Director
Frank Froio, Managing Director
Sharon Hirschhorn, Director
Brian Sapadin, Executive Director

New York, NY	Tel +1 212 747 9100
London, England	Tel +44 (0)20 7096 2162
Hong Kong	Tel +852 3960 6575
Madrid, Spain	Tel +34 606 377820
Sydney, Australia	Tel +61 (0)2 8667 3133

GlobeTax.com