

# Enhanced Portfolio Performance via Foreign Withholding Tax Recovery: A Fiduciary Affair



In the current investment climate of dwindled returns, every basis point counts, and there is growing pressure on fiduciaries and asset managers to maximize fund performance.

When an investor holds international shares in their portfolio – including ADRs – dividends earned are often taxed at a high statutory rate, typically between 20 and 35%. Under double taxation treaties (DTTs), some of this money can be recovered. The recovery process often requires complex and highly specialized work. As a result, many banks, brokers, or custodians simply do not provide a complete service in this area.

Drag on performance attributed to withholding tax is meaningful and funds modeled around major benchmarks can add 20 to 55 basis points of performance by reclaiming these over-withheld entitlements.

## DOL PENSION AUDITS












The U.S. Department of Labor's (DoL) recent directive does not change a Plan's, or their managers', fiduciary duty to reclaim excess withheld taxes under DTTs. Recent focus on the Fiduciary Rule has however, spotlighted this activity and its potential value to pensions. Trustees have been cited by the DoL and cautioned that unless corrective action was demonstrated, they would be held liable for the pension's unclaimed entitlements. In many cases, the trustees were not aware that there was excess tax to recover.

GlobeTax has assisted several of these funds in providing the DoL with evidentiary documentation to achieve a closed status on these citations.

## FULL REFUND FOR PENSIONS!?

Depending on treaties that exist between an investor's home country and the country into which they have invested, investors may be eligible for a refund of over-withheld taxes. In the case of pension plans, full refunds are available in a number of major markets.

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Full tax refund for Pensions in these markets:					
	Tax Withheld	Statute of Limitations		Tax Withheld	Statute of Limitations
Australia 	30%	7 years	Ireland 	20%	4 years
Belgium 	27%	5 years	Japan 	15.315%	5 years
Canada 	25%	2 years	Netherlands 	15%	5 years
Denmark 	27%	5 years	Sweden 	30%	5 years
Finland 	30%	5 years	Switzerland 	35%	3 years
Germany 	26.375%	4 years	<small>This chart lists a number of popular reclaim markets for U.S. Pensions and respective withholding rates on dividend payments. U.S. pensions are entitled to a full refund of withholding tax in all of these markets; recovery of prior years' withholding possible under statutes of limitation.</small>		

Tax recovery is important for pensions, particularly as they have experienced underfunded liabilities and middling returns over the last several years. However, the burden is on the investor to submit these complex claims directly to the foreign tax authorities to demonstrate their residency and share ownership at the dividend record date – usually a difficult and time-consuming exercise. Certification of residency from the IRS can also be a difficult and lengthy process, and must be renewed annually in order to file tax reclaim applications.

Investors are surprised to find tax reclamation is often not a supported function by their custodian or broker and as a result, entirely their responsibility.

For asset managers, recovering an investor's legal entitlements demonstrates concepts of good corporate governance and fiduciary duty standard of care, not to mention a way to maximize portfolio returns.

### **WHAT SHOULD INVESTORS DO?**

If reclamation action is not taken before statutes of limitations expire, these over-withheld funds will ultimately serve as a donation to a foreign government. To ensure that proper measures are being taken to maximize entitlement recovery, speak with your tax advisor, custodian(s) and fund manager(s) to confirm tax reclaims are being successfully completed. While some level of recovery may be taking place, there are likely entitlements still being left on the table which can be reclaimed, thus ensuring industry best practice and helping to maximize performance for your fund.

*Globe Tax Services, Inc., founded in 1992, provides international tax relief and recovery services to global investors and financial intermediaries. GlobeTax represents thousands of pension funds, as well as many other institutional and individual investors, lodging over 6 million reclaims per year. GlobeTax's reclaim service for investors is an entirely contingent service with fees only paid by clients once funds have been successfully recovered.*



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