

WITHHOLDING TAX UPDATE

February 2019



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With the New Year comes 2019's first *Withholding Tax Update* newsletter.

Between navigating year-end filings, debuting ESP Bulk Upload for Japanese relief at source, unveiling the Chilean quick refund process and numerous other market updates, both GlobeTax and the marketplace at large were kept busy in 2018.

As the *Update* reveals, 2019 is starting out at an equally vigorous pace. In this issue, we cover the much-anticipated updates to the Norwegian relief at source procedure, as well as crucial market updates in Switzerland, Germany, France, and Spain. Rounding out the publication, we overview some of the newest double taxation treaties and introduce emerging reclaim opportunities under European Court of Justice "discrimination" rulings.

Read on to get a head start on the New Year!

Best,

Joe Hands
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Update to the Relief At-Source Process in Norway

The Norwegian Tax Administration (NTA) has introduced new requirements for the tax reclamation process, effective January 1, 2019. Beneficial owners must be disclosed in all instances, and supporting documentation is now required with a few exceptions detailed below.

For Individuals

Documentation requirements will be based on a minimum share threshold. Found on each Important Notice, this threshold is based on an annual dividend distribution of NOK 10,000 per beneficial owner per security.*

- If an individual is below the threshold, Beneficial Owner (BO) Confirmation is required. BO Confirmation need only be submitted once and does not need to be submitted in tandem with a dividend event.
- If an individual is above the threshold, a Certificate of Residence (COR), valid within three years, is also required.

*** NOTE:** If a Norwegian issuing company expects to pay more than one dividend a year, the equivalent share threshold of NOK 10,000 per annum will be divided by the number of events.

For example, a company paying one annual dividend of NOK 10.00 per share will see the share threshold set at 1,000 shares for individuals.

If another company is expected to pay two dividends in a single year at NOK 10.00 per share, the threshold will be 500 shares per event.

For Non-Individuals

All submissions must include a COR, valid within three years, and BO Confirmation.

In addition, a written confirmation of entitlement to a reduced or exempt withholding tax rate is required. This confirmation may be either:

1. An approved application for a withholding tax refund; or
2. An approval from the NTA confirming entitlement to a reduced rate.

If the beneficial owner is an European Economic Area (EEA) resident claiming a treaty rate or exemption, a separate EEA Confirmation is required confirming that the BO's tax status has not changed since pre-approval.

The matrix on the following page contains templates and document descriptions. Please contact NorwayESP@GlobeTax.com or view the Important Notice for more information.

continued on next page



Joe's Handy Hints

Hint #1 – Expedite Danish Long Form Claims

To speed up the Danish Long Form process, simply send us scans of your claims to Danishdocs@GlobeTax.com.

There's no need to send any original documentation when you submit a claim.

Hint #2 – Simplify Irish Relief at Source

You don't need to send an ESP cover letter if we have an original V2/V3 form on file that is certified within 5 years of ordinary pay date.

However, you should keep the cover letter for your records in case of audit.

Hint #3 – Manage Your ESP Accounts In-House

Did you know: your organization's ESP account administrators can unlock accounts and approve new users.

To leverage this capability, make sure that your ESP account number lists at least one administrator within your organization that can assist with enabling ESP accounts.

Norway Forms and Attachments

Document Name	Attachment	Document Description
Beneficial Owner Confirmation	 BO Confirmation.pdf	<ul style="list-style-type: none"> Confirmation from the dividend recipient that they are the actual recipient of the dividend. One-time confirmation as long as there is no change to the entity. May be signed under Power of Attorney (POA), provided that the POA clearly empowers the representative to both sign on behalf of the BO and sign all documentation related to the BO's DR shares. Copies and electronic signatures accepted. Please email the completed form to NorwayESP@GlobeTax.com.
Pre-Approval Application Template	 Application Pre-Approval.pdf	<ul style="list-style-type: none"> Although the Norwegian Tax Authority did not specify an application template, this template may be used for your convenience. For more information on how investors can apply for the approval letter, please refer to the NTA's guidelines under section 5 in this link.
EEA Confirmation	 EEA Confirmation.pdf	<ul style="list-style-type: none"> Confirmation that the tax status has not changed since pre-approval. Must be renewed every 3rd year Copies and electronic signatures accepted. Please email the completed form to NorwayESP@GlobeTax.com.

New SFTA Guidelines for Filing Long Form Claims

The Swiss Federal Tax Administration (SFTA) has provided new filing guidelines for long form reclaims. These guidelines will impact claims for both non-US residents and unsponsored securities.

All tax forms submitted for these filing procedures must utilize the most up-to-date templates, downloadable from the SFTA's website [here](#). Please note the most recent template contains a barcode on the right-hand side.

In addition, the following changes will take effect immediately:

- All tax forms must be printed on A4 paper
- Tax forms must be printed with the entire form clearly visible. The form number in the upper right-hand corner must be in plain view
- Only original signatures on tax forms will be accepted

Claims which do not use the most up-to-date tax forms or fail to adhere to the above guidelines will be rejected. Please contact SwitzerlandESP@GlobeTax.com with questions.

German Tax Authority Suspends DTV Process

Effective immediately, the German Tax Authority has suspended the use of the Electronic Filing Process (DTV/ Quick Refund) on ADRs, GDRs, EDRs, and IDRs. Claims in-flight may need to be resubmitted through the standard long form process.

Due to higher fees, including voucher fees charged by the German custodians, some claimants may be rendered ineligible.

If any of your prior DTV claims are impacted, you will be contacted separately by GlobeTax. Any additional questions may be directed to GermanyESP@GlobeTax.com.



US Government Shutdown: Check with GlobeTax for 6166 Alternatives

As a result of the recent government shutdown, the IRS is experiencing delays in fulfilling Certificate of Residency (IRS Form 6166) requests.

GlobeTax is working with local custodian banks, issuers, and tax authorities to relax 2019 Form 6166 requirements in instances where record dates occur early in the year.

If your clients are unable to provide a current 6166 due to the government shutdown, please contact the appropriate GlobeTax market representative or consult the Important Notices for alternative solutions.

■ ■ Changes to Documentation Requirements for French Reclaims

Effective immediately, the French Tax Authority (FTA) has revised their requirements for U.S. Trusts reclaiming through the standard long form procedure. In addition, the FTA has clarified instructions for completing the Form 5000.

U.S. 81-100 Group Trusts

In addition to the Treasury Determination Letter mentioning section 401(a), 401(b), 403(b) or 457, Group Trust investors pursuing long form reclaims must provide the following documentation:

- A list of all trust members;
- A list of trust members that are U.S. pension funds under IRS sections 401(a), 401(b), 403(b) or 457;
- A stand-alone IRS Form 6166 for any trust members that are also U.S. pension funds;
- An attestation stating the percentage of French-sourced dividends attributable to each U.S. pension fund under the above-referenced IRS sections.

U.S. Complex & Simple Trusts

US Complex Trusts are now treated similarly to partnerships and must submit a 6166 listing all underlying holders.

Complex trusts must also provide full disclosure of underlying holders and specify whether income was retained or distributed.

US Simple Trusts must provide a copy of IRS Form 1041 for the Ordinary Pay Date year.

Updates to Form 5000

Box III of Form 5000 must be signed, stamped, and contain the date and address of the location where the documents were signed.

Box VI must be stamped and dated if a Form 6166 is not provided (applicable to U.S. Individuals and Corporations).

If you have any questions, please contact FranceESP@GlobeTax.com.

BBVA Implements Late Filing Fee

Effective immediately, custodian bank BBVA will apply a €200 late fee to Spanish claims received after the long form filing deadline listed in the Important Notice.

To avoid incurring a late fee, please submit long form claims to GlobeTax six weeks prior to the statute of limitations deadline (four years from local pay date). The fee must be paid upfront before a late claim can be filed.

This change will primarily impact claims for the security Banco Bilbao Vizcaya Argentaria (CUSIP: 05946K101) and any unsponsored claims filed through BBVA as local custodian.

Additional information regarding this change can be found on upcoming BBVA notices or by contacting the Spanish reclaims team at SpainESP@GlobeTax.com.



New 2019 Double Taxation Treaties (Dividends)

At GlobeTax, we strive to keep the marketplace up-to-date on developments within the international withholding tax world. To that end, we have assembled a partial list of double taxation treaties governing popular markets that have gone into effect for 2019.

Review the below matrix to ensure that clients are receiving their correct dividend entitlements.

Treaty Country 1	Treaty Country 2	Effective Date	Treaty or Protocol	Favorable Withholding Tax Rate
Austria	Japan	January 1, 2019	Treaty	10% (from 20%) / 0% for pensions
Belgium	Norway	January 1, 2019	Treaty	15% / 5% for pensions
Belgium	Poland	January 1, 2019	Protocol	10% (from 15%)
Cyprus	Luxembourg	January 1, 2019	Treaty	5%
Denmark	Japan	January 1, 2019	Treaty	15% / 0% for pensions
Estonia	Japan	January 1, 2019	Treaty	10%
Finland	Spain	January 1, 2019	Treaty	15% / 0% for pensions
Japan	Lithuania	January 1, 2019	Treaty	0% / 10% for individuals
Japan	Russia	January 1, 2019	Treaty	10% (from 15%)
Japan	Iceland	January 1, 2019	Treaty	15%
Mexico	Philippines	January 1, 2019	Treaty	15%
Portugal	Finland	January 1, 2019	Treaty Terminated	Statutory rate will apply

Note: This table does not represent an exhaustive list of new double taxation treaties or protocols going into effect in 2019.



New Opportunities for Reclaiming European Entitlements

Investors both inside and outside of Europe are enjoying new opportunities to reclaim withholding tax in the European Union (EU) and European Economic Area (EEA) thanks to precedent established by the European Court of Justice. Over the last decade, the Court has deemed it “discriminatory” to treat investors resident outside of the EU/EEA differently than comparable investors resident in those jurisdictions. As a result, comparable non-EU/EEA investors can file claims in EU/EEA Member States where discrimination is taking place and recover entitlements over and above those available through treaty-based relief at source or long form processes.

This area of tax reclamation is quickly growing. New opportunities are emerging in Denmark and the Netherlands for investment fund beneficial owners. Likewise, pension funds and other investor types are closely following several outstanding cases that would expand entitlements further. GlobeTax clients have successfully reclaimed funds in France, and are awaiting reclaims in eight additional markets including Germany, Poland, and the Netherlands.

We are actively working to identify relevant opportunities and submit claims on behalf of clients of DTC Participants. If you have clients with large holdings in the EU or EEA who might be eligible, please direct them to William_DeFabbia@GlobeTax.com.