

## A Gold Standard Needed for Tax

*Ross McGill from [GlobeTax](#) sets out what he sees as the key challenges for the industry around automation and standardisation in tax processing, and the need for a gold standard.*

Despite the desire of the industry to automate and standardise in order to gain efficiencies, the world of tax appears not to have received the message. Both the OECD's TRACE and the EU's Tax Barriers Business Advisory Groups have previously identified the difficulties of efficient cross border taxation, embedded as they have been in paper based, complex treaties with a variety of different rules per market. Both groups came to the same conclusions – that an Authorised Intermediary (AI) model, similar to that of the US and Ireland's QI model, based on financial institutions adopting responsibility for withholding and reporting – would allow for the industry to adopt more efficient processing mechanisms while allowing tax authorities to meet the terms of their bilateral treaties. Both groups also noted that the most efficient model is relief at source rather than either quick refund or post pay date long form claims. This would seem to have set the scene for a progressive move towards standardisation and automation – things the industry is pretty good at over the long haul.

However, trends in the industry are moving to more complexity and greater disclosure (usually on paper). Some of this reaction has been caused by tax arbitrage and abuse of tax treaties, and is laterally connected also to anti tax evasion frameworks such as FATCA, AEOI and BEPS. The result is that tax authorities are now requiring a much greater burden of proof from investors via their financial intermediaries that they are in fact entitled to benefits and held securities for proper economic reasons. For subcustodians, who retain the strict liability for correct withholding, this impacts on whether they are able to efficiently operationalise the risk out of offering tax relief, whether that be via relief at source or the more onerous 'long form' processes.

So, while tax relief still represents the most efficient and effective tax model, events have overtaken the previous proposition. The original TRACE and Tax Barriers groups took as their foundation that there would be minimal tax arbitrage and that documentation models would be relatively simplistic e.g. self certification of tax residency. So, while the AI/QI model is still relevant, and tax relief is still the 'go to' proposition, custodians and sub-custodians in already complex counter-party networks are finding it ever more difficult to operationalise tax.

How do these trends become visible to the average custodian in a network? Larger claims attract more frequent requests from tax authorities for further information (audits) as a control against treaty abuse. Trade confirmations will become the de facto standard for claims eligibility (i.e. proving through trade history that the beneficial owner held the securities for a valid economic purpose and not simply tax arbitrage or worse, fraud). Claims

from collective investment entities will increasingly require disclosure of underlying investors ranging across anything from a certification from the vehicle, through data driven beneficial owner disclosure, through to full documentary evidence based disclosure. These are just examples of a wider trend. Custody also has its own trends: one of these is the use of counter party omnibus accounts as a method to reduce operating costs, yet these account types create fundamental problems when the tax world is requiring ever more disclosure.

The net result is that if you are a sub-custodian performing due diligence on your network counterparties, the level of questioning will become more complex in the tax arena and the scale and scope of tax relief services offered by your counterparties will narrow as the cost of meeting the disclosure requirements starts to outpace what are usually quite limited resources. Some of the global custodians do have sub-custody networks with some level of automation, but it's not ubiquitous and is predicated on some level of ownership of control. For tier 2 and tier 3 custodians, to get an effective tax relief offering you either have to buy in to a global custodian's network or you have to manage your entire network, for tax processing purposes, on a one-by-one basis.

While the OECD TRACE and EU T-BAG groups did a great job of scaling and scoping the tax market and identifying the 'perfect world' operational solution, those propositions now need to be re-calibrated to our new tax world order. Disclosure is the order of tomorrow and technical solutions need to be found that allow tax relief at source to be achievable for most investor types and for financial institutions to continue to gain the benefits of omnibus accounts all while supporting the disclosure requirements of tax authorities. Such technical solutions would crystallise the industry's corporate actions processing model and set a gold standard for tax processing.

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### About Ross McGill

Ross McGill has been the Managing Director of GlobeTax since 2003 and runs all GlobeTax's offices outside the US. Ross is a subject matter expert and frequent speaker on international withholding tax. Ross has also authored eight books focusing on issues facing financial firms and institutional investors including technology management, standardisation and automation, global regulation and, of course, withholding tax. Ross is also a member of several industry working groups including the International Capital Markets Services Association, ISO20022 Securities Evaluation Group and the EU Tax Barriers Business Advisory Group. Ross is a key member of the product team at GlobeTax currently developing a global tax relief automation service that will substantially improve tax relief processing for sub-custodians, and CSDs. The service is projected for launch in early 2018.

Ross will be participating in the "TechBrek" Innovation and Technology Breakfast panel at The Network Forum Annual Meeting in Warsaw, on Thursday 29th June.

## About GlobeTax

[GlobeTax](#) is the leading provider of withholding tax relief, recovery and reporting services to the global financial community, processing and filing over six million reclaims a year.

GlobeTax is an Event Partner at The Network Forum Annual Meeting.