

To: Taxation WG
From: Personal & general insurance department
Date: 24-07-2023
Reference: ECO-TAX-23-098

Subject: Analysis Withholding Taxes proposal

Summary

On **19 June**, the EC published its "Withholding Taxes" [proposal](#). The deadline for providing feedback to the EC, currently on **14 September**, is being extended every day until the text is translated into every EU language.

The initiative will follow the consultative procedure (CNS), meaning that the European Parliament (EP) will have a consultative role only. The Council has no obligation to take the advice of the EP into account. Adoption by the Council will require unanimity.

On **20 May 2022**, Insurance Europe responded to the public consultation launched by the EC on the Withholding Taxes initiative ([ECO-TAX-22-038](#)).

On **20 June 2023**, the secretariat invited members to take note of the "[Withholding Taxes](#)" [proposal](#) by the European Commission (EC); to provide preliminary views on aspects of the proposal that might be relevant to the insurance industry; and to share their views on the extent to which they believe Insurance Europe should submit feedback on the proposal ([ECO-TAX-23-083](#)). Members did not react to the call for feedback.

The secretariat drafted a short analysis of the proposal (see below), for informative purposes and to stimulate potential feedback. Should members intend to provide any comments, they can contact the secretariat directly (life@insuranceeurope.eu).

Next steps

- **14 September**, deadline for providing feedback to the EC (to be extended until the text is translated into every EU language).

Analysis:

Proposal for a Council directive on Faster and Safer Relief of Excess Withholding Taxes [2023/0187 (CNS)]

<p>Chapter I – General provisions (Art. 1 – 2 – 3) Art. 2 - Scope</p>	<p>The proposal for a directive lays down rules on:</p> <ul style="list-style-type: none"> ■ the issuance of a digital tax residence certificate by Member States; ■ the procedure to relieve any excess withholding tax that can be withheld by a Member State on: <ul style="list-style-type: none"> ■ dividends from publicly traded shares; and ■ where applicable, interest from publicly traded bonds paid to registered owners who are resident for tax purposes outside that Member State. ■ Rules on digital tax residence certificate (Chapter II) shall apply to all MSs with regards to all persons that are resident for tax purposes in their jurisdiction. ■ Withholding tax relief procedure (Chapter III): <ul style="list-style-type: none"> ■ shall apply to all MSs that provide relief of excess withholding tax on dividends paid for publicly traded shares; and ■ may be applied by MSs that provide relief of excess withholding tax on interest paid for publicly traded bonds.
<p>Chapter II – Digital tax residence certificate (eTRC) (Art. 4)</p>	<ul style="list-style-type: none"> ■ MSs should implement a system to automatically issue digital tax residence certificates (eTRC) to a person deemed resident in their jurisdiction for tax purposes. ■ The eTRC shall be issued in one working day from submission of a request, if more time is necessary the MS should inform the requiring person and provide an explanation for the delay. ■ The proposal sets the information to be included in the eTRC. ■ eTRC shall cover at least the whole calendar year when issued. ■ MSs shall recognise an eTRC issued by another Member State as adequate proof of residence of a taxpayer in that other MS. ■ The proposal includes a list of the technical details for which the EC will adopt implementing acts for the issuing of the eTRC.
<p>Chapter III- Withholding tax relief procedure</p>	
<p>Section 1 – certified financial intermediaries (Art. 5 – 6 – 7 - 8)</p>	<ul style="list-style-type: none"> ■ MSs that levy a withholding tax on dividends and that provide relief of excess withholding taxes shall establish a national register of certified financial intermediaries. ■ MSs may opt to establish the same national register if they levy a withholding tax on interest from publicly traded bonds while they do not levy withholding tax on dividends from publicly traded shares. ■ Those MSs shall designate a competent authority (CA). ■ The proposal includes a list of the info that should be included in the national registers. ■ The national registers should be made public. ■ MSs should require all large institutions that handle payments of dividends and, where relevant, interest on securities originating in their jurisdictions, and central securities depositories to register. Registration is voluntary for other institutions. ■ MSs should verify that the registration took place within 3 months from the request.
<p>Section 2 – reporting (Art. 9)</p>	<ul style="list-style-type: none"> ■ Reporting by CFI should take place as soon as possible and after the record date, with a deadline of 25 days, excepts for MS where relief at source applies.

	<ul style="list-style-type: none"> ■ CFI will be obliged to report if the investment of the registered owner is taking place in a MS that has a national register. Reporting is not needed if the total dividend paid to the registered owner does not exceed 1000 €. ■ Outsourcing by CFIs is possible as long as the CFI remains responsible and accountable for the correctness of the reporting. The outsourcing can be in favor of other financial intermediaries within the custodial chain. ■ The information that is visible for CFI shall be reported to the authorities, for them to be able to reconstruct the chain of transactions. In particular, this applies to information about the holding period of underlying securities and information about financial arrangements (such as repurchase agreements and securities lending) linked to the securities for which relief is asked ■ An implementing act by the EC will establish a standardised XML reporting format.
<p>Section 3 – system of relief (Art. 10 – 11 – 12 – 13 – 14 – 15 – 16 – 17)</p>	<ul style="list-style-type: none"> ■ The proposal sets the conditions for the request of relief by a CFI on behalf of a registered owner, including the authorisation from the registered owner and the information that the CFI should obtain from the registered owner. ■ The proposal establishes the conditions for relief at source and quick refund, and standard refund (in case the two other options are not possible). ■ The directive also establishes the interests in case of late payments (in case of no refund within 25 days), civil liabilities, and penalties.
<p>Chapter IV – final provisions (Art. 18 – 19 – 20 – 21- 22- 23 -24)</p>	<ul style="list-style-type: none"> ■ The EC will examine and evaluate the functioning of the Directive, after it comes into effect, every 5 years. The EC will also submit to the EP and the Council a report highlighting the need -if any- to amend specific provisions, by December 2031 and every 5 years. ■ Member States should transpose the directive by 31 December 2026 at the latest. ■ Member States shall apply the provisions from 1 January 2027.