

Ref: EU Commission Consultation on the New EU System for the avoidance of double taxation and prevention of tax abuse in the field of withholding taxes

Date: 26 June 2022

Link: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13031-Withholding-taxes-new-EU-system-to-avoid-double-taxation/public-consultation_en

EXECUTIVE SUMMARY

Inefficiency of withholding tax systems

Individual, non-professional (“retail”) investors are significantly demotivated or hampered from investing cross-border within the EU due to:

- First, the widespread de facto double taxation of investment income within the “Single Market” (for example the so-called Belgian-French Tax Treaty to avoid double taxation is in reality organizing the double taxation with Belgian residents holding shares of French-domiciled companies paying much higher taxes on the dividends received from those issuers than for Belgian-domiciled ones, and much higher taxes also than French residents receiving the same dividends. And that is even if the Belgian resident investor is able to claim and get the reduced withholding tax rate from the bilateral tax treaty¹);
- Second, the lengthy, burdensome, and costly (often partial) refund procedures for withholding tax. Our members cite a long list of inefficiencies, such as language barriers, different bureaucratic requirements, lengthiness and cost of procedures, lack of digitalisation etc (see Question 3 and 16). The procedures are often much more complicated and lengthy than for - for example - US source investment income withholding tax.

In order to create a true single market for investments, the main obstacle (taxation) for “retail” investors must be addressed through EU action and standardised mechanisms.

Tax refund procedures

Tax refund procedures are, by far, too complicated and often too costly to enable the average, non-professional investor obtain refunds on withholding tax. The most important obstacles for this are the delays in effectively receiving the excessive WHT refund, the high compliance costs associated with the WHT refund procedures, the high opportunity costs due to the delay in receiving the WHT refunds, which ultimately lead to permanent factual double taxation suffered.

Need for EU action

It is without doubt that the need for reform has gone beyond a mere “tax cooperation” between EU Member States and action needs to be taken in a harmonised manner at EU level. The EU co-legislators must mandate the EU Commission to propose [a relief at source system through an EU Regulation](#) and significantly improve all other adjacent aspects in order to stimulate cross-border “retail” investments.

The range of measures must simplify procedures and (only partially) avoid EU “retail” investors being taxed twice – which is not a favour done but their right – and invest on a cross-border basis, otherwise the Capital Markets Union will remain a utopic desiderate.

Preferred policy option

BETTER FINANCE supports all measures proposed by the EU Commission to improve the situation.

[In our view, it is of utmost importance to oblige all Member States to provide for a relief at source procedure to avoid double taxation from the start.](#)

To ease and streamline the cumbersome refund procedure:

¹ Even if getting the “benefit” of the FR-BE tax treaty’s reduced withholding tax of 15% , the Belgian owner of shares of a French domiciled company , will end up be taxed 40.5% (15% by FR and 85%x 30% = 25.5% by BE) versus 30% for dividends from Belgian-domiciled issuers, and versus 30% for a French resident investor holding the same shares.

- Standardized and same language forms for refund requests across Member States' tax administrations;
- Standardised document requirements proving the right to reclaim WHT paid in another Member State whereby a tax residence certificate and the deposit statement showing the tax withheld should be considered as sufficient proof;
- Central repository at EU level to store tax residence certificates issued by Member States' tax administrations;
- E-request of tax residence certificate (swift online provision of the tax residence certificate) and digitalized verification system;
- Obligation of digitalizing the WHT refund procedures by every Member States' tax administrations (E-filing of tax reclaim, online website to monitor refund status, e-document sharing, online communication of the outcome, etc.);
- Single web-portal (one-stop shop) where an investor could log in and make a refund claim irrespective of the source MS, based on standardized forms;
- Accruing interest in case of delays on getting the refund back under a limited period for handling the WHT reclaim;
- Issuing digital passport to attest investor's entitlement to tax treaty benefits for a period of time.

But all this will not end the investment income tax discrimination within the EU and the violation of the provisions of the Treaty of Rome and the free movement of capital, as the above-mentioned example of Belgian investors demonstrates.

Contact:

Guillaume Prache, Managing Director, prache@betterfinance.eu
 Stefan Voicu, Research & Policy Officer, voicu@betterfinance.eu

About BETTER FINANCE

BETTER FINANCE, the European Federation of Investors and Financial Services Users, is the public interest non-governmental organisation advocating and defending the interests of European citizens as financial services users at the European level to lawmakers and the public in order to promote research, information and training on investments, savings and personal finances. It is the one and only European-level organisation solely dedicated to the representation of individual investors, savers and other financial services users.

BETTER FINANCE acts as an independent financial expertise and advocacy centre to the direct benefit of European financial services users. Since the BETTER FINANCE constituency includes individual and small shareholders, fund and retail investors, savers, pension fund participants, life insurance policy holders, borrowers, and other stakeholders who are independent from the financial industry, it has the best interests of all European citizens at heart. As such its activities are supported by the European Union since 2012.

Contents

INTRODUCTORY EXPLANATIONS (for non-professional readers) 3

I. ISSUE AT STAKE 3

II. NEED FOR EU ACTION 7

III. POLICY OPTIONS 9

 III.A. Improving withholding tax refund procedures 10

 III.B. Establishing a common EU relief at source system 10

 III.C. Enhancing existing administrative cooperation framework..... 11

IV. COMBATTING TAX ABUSE 13

INTRODUCTORY EXPLANATIONS (for non-professional readers)

When investing outside one's jurisdiction of residence, an investor is subject to double taxation: at source (country where the investment is made), called withholding tax, and in the investors' country of tax residence.

EU citizens are entitled to obtain a tax refund from the "source" jurisdiction: for instance, if an investor resides in France and the company in which he/she invested is domiciled in Spain, the investor will have the right to obtain a refund on the withholding tax levied on dividends in Spain.

However, the EU Commission noted that the administrative procedures of EU Member States with regard to obtaining the refunds are "inefficient", burdensome, "*demanding, resource-intensive and costly for both investors and tax administrations*".

This public consultation follows-up on the EU Commission's Action Plan on Building a Capital Markets Union (of 2020) to "*explore non-legislative initiatives to lower compliance costs for cross-border investors and to prevent tax abuse*".

BETTER FINANCE's aim is to support the EU Commission to shift the administrative burden off individual, non-professional ("retail") investors rather than merely simplifying procedures for tax refunds. This can be done through a "*relief at source*" mechanism, which must be coupled with a set of other targeted measures (see answers below).

I. ISSUE AT STAKE

Question 1. 1. Do you think that the current functioning of withholding tax refund procedures in Member States hinders cross-border investment in the EU securities market?

- Strongly agree
- Agree
- Agree to some extent
- Do not agree
- Don't know

Question 2. For which of the following payments do you think that the issue of inefficient WHT procedures is relevant (multiple options are available)

- Dividends from listed companies
- Dividends from unlisted companies
- Interests related to debt instruments in listed companies
- Interests related to debt instruments in unlisted companies
- Royalties
- Other

Please explain

No further explanations

Question 3. What is, in your opinion, the nature of the problems with existing WHT refund procedures (multiple options are available)

	Low importance	Medium importance	High importance
Lack of knowledge by the investor about the existence of refund procedures and/or mechanism available to claim the refund	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lack of digitalisation in WHT procedures and non user-friendly forms	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Lengthy WHT refund procedures	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Costly WHT refund procedures in monetary terms (administrative and opportunity costs included)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Country of investment does not accept tax residence certificates from the residence state	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Conflict on tax residency	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Country of investment requires information which the investor is unable to deliver	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Please explain

Different documentation requirements across Member States to prove the refund entitlement. While in Finland for example, a certificate of residence is sufficient to reclaim withholding tax, for example, the French tax authorities require a "confirmation from the French paying body" to prove that the withholding tax of a non-resident has been withheld. A confirmation from the German custodian bank is generally rejected as it is not considered as equivalent to the confirmation from the French paying body. The French paying body, however, regularly refuses the confirmation, arguing that (because of the omnibus account structure and multiple intermediaries involved in the cross-border process) a confirmation is not possible as the beneficiary of the dividends is not known to the French paying body.

Another example for burdensome documentation requirements is Austria, where a certificate confirmed and signed by the custodian bank stating in which securities account the shares concerned were held on the last day before the ex-dividend day is required. This proof shall also contain a statement that the securities account balance is the end-of-day balance of the shares before the ex-dividend day and whether the confirmed end-of-day balance was issued on the basis of the actual transaction or the contractual transaction; Further required is evidence of who owned the custodian account on the last day before the ex-date and of the turnover on safe-custody accounts relating to the affected shares for the period from one month before to one month after the ex-date.

To reclaim tax withheld on Spanish or Portuguese dividends, alien investors first need to obtain a NIF (Spanish/Portuguese tax identification number) which in the case of Portugal cannot be obtained online but only either in person or through a consulate in the investor's home Member State. These examples show that documentation requirements need to be standardised at EU level.

Another problem is that for example in Germany, various banks do no longer support private investors in WHT refund procedures. One reason for this seems to be that the German Ministry of Finance issued a circular noting that German banks are forbidden to provide tax support and that, for example, the obtaining of a certificate of residence for the bank's client would be considered as

tax support. Since this circular (https://www.vab.de/wp-content/uploads/2019/04/schr_BMF_181218-1.pdf) had been issued in 2018, several banks (eg. Onvista, S-brokerDKB) do no longer provide private investors with support regarding WHT refund.

Question 4. What are in your view the consequences of the problems encountered with WHT refund procedures? (multiple options are available)

	Low importance	Medium importance	High importance
Delays in effectively receiving the excessive WHT refund	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
High compliance costs associated with the WHT refund procedures	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Giving up the right of submitting WHT refund claims	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
High opportunity costs due to the delay in receiving the WHT refunds	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Permanent double taxation suffered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
High risk that the system is abused	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Please explain

The problems, private investors encounter with WHT refund procedures lead to decreased cross-border investments any by that pose a threat to the CMU. The feedback BETTER FINANCE received from its member organisations shows that for example many German private investors stop investing in French shares because the double taxation makes such an investment far less attractive.

Question 5. In January 2016, the overall cost of the WHT refund was estimated at EUR 8.4 billion per year. Are you aware of any study or estimate of the cost of WHT refund incurred per year on aggregated basis at EU or national level from academic or official source (Please, indicate the source)?

- Yes
- No

Please provide evidence

N/A

Question 6. Have you ever invested in securities (debt or equity) in an EU country different from your home country?

- Yes, regularly
- Yes, occasionally
- No, never
- Don't know

Question 7. If you answered to Question 6 in the negative, what is the reason?

- I do not want to go through WHT procedures due to the inefficiencies of the tax system
- Any other tax-related reasons
- Any other non-tax-related reasons

Please explain the reasons

N/A

Question 8. If you answered to Question 6 in the affirmative, if the country of investment levied a WHT above the rate of the applicable DTC, did you encounter problems on the refund of this excess withholding tax?

- Yes, regularly
- Yes, occasionally
- No, never
- Don't know

Question 9. In which countries did you encounter such problems?

France, Italy, Belgium, Spain, Portugal, Austria.

Question 10. In which countries did you not encounter such problems?

France, Luxembourg, Sweden.

Question 11. Did you manage to receive the excessive tax withheld back?

- Yes, in all cases
- Yes, in some cases
- In few cases
- No, never
- Don't know

Question 12. How long did you have to wait for the refund after submitting the application?

- Period of time for the refund: between 0 and 6 months
- Period of time for the refund: between 6 months and 1 year
- Period of time for the refund: between 1 and 2 years
- Period of time for the refund: longer than 2 years
- Don't know

Question 13. In monetary terms, how much did the procedure for getting the refund back cost you?

- Small percentage of the amount of the refund (below 5%)
- Medium percentage of the amount of the refund (5-30%)
- High percentage of the amount owed as refund (30-50%)

- Very high percentage of the amount of the refund (above 50%)
- Don't know

Question 14. In terms of time spent, how long did it take you, on average, to collect all the documentation required to submit one refund claim?

- Less than a week
- Between 1-3 weeks
- More than 3 weeks
- Don't know

In case of more than a week, can you indicate what the issue is?

Regarding Q12: The time until the refund is made differs significantly from Member State to Member State. For example, in Italy, a refund may take up to 20 years, in Denmark it is currently around 2 years and in Austria around 1 year.

Regarding Q13: the refund costs differ significantly, depending on how many intermediaries are involved and how burdensome the procedure is. For a German private investor, the costs amount to between 70 EUR and 120 EUR per refund procedure. Taking into account that for example the French tax authorities require one refund procedure per dividend payment (and many French issuers pay quarterly dividends for each of which a refund procedure needs to be initiated), these amounts regularly exceed the tax withheld.

Regarding Q14: See our answer to Q3: the documentation requirements differ from MS to MS and some documents are difficult or even impossible to obtain, eg. the confirmation from the French paying agent or the NIF from the Spanish/Portugues tax authorities.

II. NEED FOR EU ACTION

Question 15. Several EU countries have now introduced (or are planning to introduce) enhanced procedures to make WHT procedures more efficient. In this context, do you think that there is a need for EU action in order to make WHT refund/relief procedures more efficient?

- Strongly support
- Support
- Support to some extend
- Do not support
- Don't know

Question 16. What would be the added value of an action at EU level, compared to actions taken by Member States? (i.e. harmonized system, single set of standardized forms, common procedures, etc.)?

- High added value as there would be an EU wide harmonized framework in place (no more fragmented WHT systems across the EU)
- Medium value
- Low added value as an EU wide harmonized framework is not needed
- No added value
- Don't know

Please, provide a further explanation of the reply given

An EU wide harmonised framework will address most of the shortcomings stemming from EU Member States arbitrary powers to impose different deadlines, administrative and bureaucratic procedures, and requirements, for WHT refunds **and relief procedures**.

On the occasion of two previous EU Commission consultations on taxation of individuals and cross-border investments, our members have highlighted many shortcomings. To reiterate them:

1. On cross-border investments our national member organisations' members have been dissuaded from investing cross-border have changed their cross-border investment decisions due to:
 - a. Insufficient safeguards related to good administrative conduct (e.g. non-discriminatory treatment of foreign investors, adoption of administrative decisions within reasonable time);
 - b. Insufficient safeguards in procedural rules of the EU Member State(s), such as lack of legal standing to challenge laws which are contrary to EU law, remedies not in the same procedure, or lack of availability of interim measures;
 - c. Difficulty in establishing state liability for breaches of EU law;
 - d. Double taxation of investment income - dividends in particular, of inheritance of real estate investments in another member state, illegal harassment by Member State tax administration
 - e. The inefficient and cumbersome withholding tax procedures on interests and dividend payments which lead numerous of our members to divest in those Member States which build up (procedural) hurdles for individual investors to reclaim their double taxed dividend/interest income.
2. On direct taxation of individuals and their investments, our members have indicated:
 - a. Lack of standard and uniform certificates available in all official languages;
 - b. Lack of standardised documentation requirements
 - c. Lack of a better cooperation between the tax administrations of Member States;
 - d. Lack of a common, standardised, EU-wide system for withholding tax relief at source;
 - e. Administrative burdens, such as:
 - i. The need to submit two tax declarations
 - ii. The need to submit a certificate of residence
 - iii. Problems related to language barriers, such as non-acceptance of certificates because they were not drafted in the official language or the necessary data was not reproduced in the standard domestic way.
 - iv. Late withholding tax refunds
 - v. Paper-based withholding tax refund procedures
 - vi. Rejection of foreign certificates for deduction of insurance premiums, donations or the like;
 - vii. Online tools for reclaiming WHT are difficult to access/fill in or require opening of an account at a tax authority in another Member State with difficult to understand registration procedures.

In addition, BETTER FINANCE indicated the requirement to process the declaration to reclaim the tax withheld through the intermediaries' chain (e.g. France requires this) which involves high costs and makes it practically impossible for small investors to reclaim double-taxed money back (e.g. France requires that the French intermediary "paying agent" confirms the payment to the foreign shareholder). The French intermediary however generally rejects this confirmation because "he does not know the shareholder" as a result of the omnibus account system. The French State on the other hand does not accept a confirmation from the foreign investor's deposit bank. In Belgium, the process on inheritance tax on real estate in another EU Member State is very burdensome: all in paper, it de facto requires to hire and pay notaries in both Member States given the complexity of the process, of the documents requested, and of the big differences of tax rules and procedures, as well as it demands immediate payment of tax-amount (not waiting for the other Member States' taxation), demands a lot of documents to prove payment in the other Member State, then asks to fill another declaration to ask for offsetting the foreign tax already paid (but requires the individual to fill the form only two years after the beginning of the process). In the end the taxpayer - despite the wording of the bilateral tax treaty - ends up paying more than if the property was in the same Member State. The process can take 3 years or more, and cost even - due to notaries' and lawyers' fees - than the taxes paid. It is a clear violation of the Treaty of

Rome. Some banks can help the individual investor (e.g. shareholder) to avoid double taxation, but it proves too costly (due to administrative fees), especially for small positions.

III. POLICY OPTIONS

Question 17. As an investor, which mechanism would you prefer to have in place across the EU to obtain the return on your cross-border investment from securities?

- Preference for a harmonized relief at source system (hereby the reduced WHT rate over dividends, interests, etc. is applied directly by the issuer of the securities/financial institution)
- Preference for a harmonised and more efficient refund procedure system (whereby the issuer of the securities/financial institution applies the domestic WHT rate and then the investor claims the refund of the excessive tax withheld)
- Preference for putting in place a combination of both previous mechanisms
- No preference for one or the other system, provided that current system is not burdensome and that it is efficient
- Other

Please explain

Clearly the current systems are burdensome, and a simplified approach is needed in all EU Member States. BETTER FINANCE members strongly advocate for the harmonised and automated relief at source system, although a combination of the first two options can be envisaged as well.

Question 18. As a financial intermediary, which mechanism would you prefer to have in place across EU to manage the return on your clients' investments in order to remove barriers to cross-border investment?

- Current system with different national procedures in place
- Harmonized system of relief at source
- Harmonized system of improved refund procedures
- A combination of the above systems (relief at source and refund system)
- Other

Please explain:

N/A

Question 19. As tax administration, which mechanism would you prefer to have in place across EU for non-resident investors receive the return on their investment:

- Current system with different national procedures in place
- Harmonized system of relief at source
- Harmonized system of improved refund procedures
- A combination of the above systems (relief at source and refund system)
- Other

Please explain

N/A

III.A. Improving withholding tax refund procedures

Question 20. In case the EU initiative consists of simplifying and streamlining the WHT refund procedures, which measures do you think will be more effective to achieve these goals? (Multiple options are available)

- Standardized and same language forms for refund requests across Member States' tax administrations
- Central repository at EU level to store tax residence certificates issued by Member States' tax administrations
- E-request of tax residence certificate (swift online provision of the tax residence certificate) and digitalized verification system
- Obligation of digitalizing the WHT refund procedures by every Member States' tax administrations (E-filing of tax reclaim, online website to monitor refund status, e-document sharing, online communication of the outcome, etc.)
- Single web-portal (one-stop shop) where an investor could log in and make a refund claim irrespective of the source MS, based on standardized forms
- Allowing alternative ways of proving tax residence (i.e. investor self-declaration)
- Accruing interest in case of delays on getting the refund back under a limited period for handling the WHT reclaim
- Issuing digital passport to attest investor's entitlement to tax treaty benefits for a period of time
- Refund claim made on the investor's residence country instead of on the country of the investment

Question 21. Explain below any other mechanism you consider appropriate to streamline the WHT refund processes.

Not necessary, if at least any of the abovementioned mechanisms would be put in place, it would constitute an improvement of the current demotivating and burdensome situation.

Question 22. Who should make the refund claim to the investment country?

- Only the non-resident investor
- Besides the non-resident investor, the financial intermediary should have the opportunity to make the refund claim on behalf of the non-resident investor in case by case basis
- Besides the non-resident investor, the financial intermediary should have the opportunity to make the refund claim on behalf of the non-resident investor in bulk basis

III.B. Establishing a common EU relief at source system

Question 23. Which payments do you think should be covered under a potential EU relief at source system?

- Dividends from listed companies
- Dividends in general
- Dividends and interest
- Dividends, interest, royalties, other passive income payments
- Other

Please explain

BETTER FINANCE members see no need to discriminate between types of investment returns.

Question 24. There are countries where the relief at source system is just used for low risk payments (i.e. payments below EUR 10.000 and above 15% withholding tax rate). Do you think that a relief at source system should cover both low and high-risk payments without any threshold in terms of amount/rate or should it be used only for low-risk situations?

- Fully fledged relief at source system (covering both low and high-risk payments)
- Relief at source system covering only low-risk payments

Question 25. What do you consider as low-risk payment in the context of a relief at source system?

- Payment where the withholding tax rate to be applied is above 5%
- Payment where the withholding tax rate to be applied is above 10%
- Payment where the withholding tax rate to be applied is above 15%
- A joint limit of minimum withholding tax rate and maximum amount of payment

If you choose the last option, please indicate the most suitable amount:

In principle, BETTER FINANCE would be in favour of not making any distinction between low-risk and high-risk payments. In any case, in our view, low-risk payments should not be linked to the WHT tax rate but rather to the amount of payment. Here, we consider an alignment with the AML rules, i.e. reclaim taxes above €10,000 should no longer be considered as low-risk payments.

Question 26. Which investors do you think should benefit from a potential relief at source system: cross-border investors from EU Member States or investors from non-EU Member States as well?

- Only cross-border investors from EU Member States
- Investors from both EU and non-EU Member States

Question 27. Who should be the entities obliged to report the relevant information on the correct WHT rate to be levied on the dividend payment (or other passive income payments) to the withholding agent: only EU financial intermediaries or both EU and non-EU financial intermediaries?

- Only EU financial intermediaries
- Both EU and non-EU financial intermediaries

28. What would be the preferred or best way to establish authorized intermediaries in a relief at source system?

- By way of a request by the financial intermediary and explicit approval by the tax administration
- By way of registering in a public EU register of authorized intermediaries without explicit prior approval by the tax authorities

III.C. Enhancing existing administrative cooperation framework

29. Do you think that it would be appropriate to broaden the administrative cooperation framework in the EU (based on the Directive on administrative cooperation – DAC) to include the automatic exchange of additional financial information related to the payments received

- Strongly agree

- Agree
- Agree to some extent
- Do not agree
- Don't know

30. In case of a positive reply to the previous question, do you consider that the EU framework for administrative cooperation in the field of direct taxation should be broadened:

- Independently from the implementation of the measures described in section III.A and section III.B
- In combination with the above-mentioned measures

31. Who should be the entities bound to report the relevant information on the payment made to the investor: only EU financial intermediaries or both EU and non- EU financial intermediaries?

- Only EU financial intermediaries
- Both EU and non-EU financial intermediaries

32. In which country should the relevant information be reported by the financial intermediary closest to the investor (multiple option are available)?

- The residence country of the investor
- The residence country of the financial intermediary
- The source country of the investment

33. According to works at international and EU level in this field, it is relevant to report the following information in order to achieve the goal of ensuring tax treaty benefits entitlement: the identification information and treaty residence status of the beneficial owners of the income paid and the nature and amount of income earned by those investors. Do you agree with this approach?

- Yes
- No
- Don't know

What would you suggest instead?

N/A

34. What do you suggest to ensure that exchanges of information between relevant authorities is as efficient as possible?

- To include it as a new reporting item of the already standardized process of automatic information exchange established at international and EU level (Common reporting standard – CRS, DAC2)
- As part of another separate mechanism

Please explain further:

N/A

IV. COMBATTING TAX ABUSE

35. Which of the abovementioned options would be most effective in tackling tax abuse regarding withholding taxes:

- An improved refund procedure system (section III.A)
- An EU-wide relief at source system (section III.B)
- Enhanced automatic exchange of information (section III.C)
- A combination of the above options

If yes, please specify which combination would be most adequate:

N/A

36. What other options do you deem helpful to prevent or combat tax abuse.

Please explain:

N/A

37. Under the option of an improved refund system, in case the financial intermediary makes the refund claim on behalf of the non-resident investor, who should be liable in case of any underreporting to the investment country?

- Financial intermediary making the refund claim on behalf of its client
- Non-resident investor (final investor)
- Other

Please explain:

The financial intermediary should have the obligation of appropriate reporting and, thus, should also bear the liability for it on the basis of the due diligence duty.

38. Under the option of an EU-wide relief at source system, do you think that authorized intermediaries should be liable for any underreporting of WHT or should authorised intermediaries only be liable when they did not carry out all reasonable actions to properly verify the investor's entitlement to the tax treaty benefit?

- Liable for any underreporting detected
- Liable for underreporting when acting without due diligence

Final remark

N/A - this document was attached to the official response to the public consultation (online questionnaire on EUSurvey)