

## **BETTER FINANCE Open Feedback to European Commission on Withholding taxes – new EU system for the avoidance of double taxation and prevention of tax abuse: Faster and Safer Relief of Excess Withholding Taxes**

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According to BETTER FINANCE, the European Commission's FASTER Proposal has the potential to bring procedural progress in addressing longstanding obstacles to tax recovery for investors dealing with their cross-border investment income. We welcome an EU-wide framework to streamline withholding tax refund modalities. However, it remains key to address potential exclusions, gaps and cost uncertainties to ensure that all retail investors benefit from their rights derived from securities' ownership and to stimulate intra-EU investment. By harnessing the power of digitalisation, the proposal tackles a major hurdle related to tax residency verification by setting up a standardised European 'e-TRC', along with reporting standards. The new EU-wide WHT tax procedures, i.e. relief at source (RAS) and/or the quick refund system (QRS) options, are set to introduce speed and efficiency. We do, however, caution that these procedures solely rely on 'certified' financial intermediaries. Requiring only 'large institutions' and CSDs to register, mandated by EU countries, poses risks of leaving many investors without access to WHT facilities: Art. 10 (3)(a) explicitly allows MS to discard WHT RAS/QRS if any intermediary is not certified. We are concerned that the new provisions may thus become partly obsolete. Moreover, investors who rely on intermediaries will be unable to ascertain the chain's certification. Thus, we favour a compulsory registration (under an EU register or a passporting regime), also to truly achieve transparency throughout the entire chain of intermediaries.

The proposal does not address the myriad standard refund procedures that investors may choose or be required to use (as a fall-back option). We recommend the introduction of harmonised language and templates, notably to facilitate self-processed WHT claims directly with tax administrations. This can be achieved by ensuring that requests for documents from banks can be made at no cost to the investors. Besides, we call to differentiate professionals from low-risk retail investors regarding tax abuse and lighter check regimes. A right approach could be to propose a compulsory RAS procedure for small investors reclaiming annual dividends of up to EUR 5000. Reduced verification requirements for QRS and direct, simpler and harmonised standard procedures should also be possible for claims of the same amount.

The proposal should treat tax recovery as a fundamental right for shareholders by ensuring its cost effectiveness since retail investors often claim small amounts. The proposed automation/digitalisation systems should result in economies of scale to factor in financial intermediaries' service charges. Concentration risk arising from registration requirements needs to be carefully considered. The imposition of fees for

automated data flows along the chain should be avoided, while a free option, i.e. a self-processed standard procedure, should be made a viable alternative.

To achieve its objective, the proposal defines the term “registered owner” but not “beneficial owner” as referenced in Art. 11(1)(a) on due diligence. To ensure compliance with an EU WHT framework that serves retail investors, its definition – or set of criteria – should be established to uniformly identify the ultimate beneficial owner and tackle nominee concept issues. This would help avoid any transnational discrimination between the source income country and the country of residence. It is also vital for templates (Annex II) to be fully harmonised; e.g. also for the record date.

We specifically call for a streamlining of processes through an EU register or a passporting regime that would prove adequate. For investors, the minimum would be the creation of a single portal enabling investors to submit applications for income tax exemption and access clear, standardised cross-national documentation and terminology. Finally, the introduction of a set of EU tax rules to harmonise MS’ tax rates should be considered, and at the very least, existing bilateral tax treaties within the EU that fail to prevent double taxation on investment income shall be prohibited.