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Capital Markets Union: Commission announces new tax guidelines to make life easier for cross-border investors

The new Code of Conduct offers solutions for investors who, as a result of how withholding taxes are applied, end up paying taxes twice on the income they receive from cross-border investments.

A withholding tax is a tax withheld at source in the EU country where investment income such as dividends, interests, and royalties is generated.

These levies provide a way for Member States to ensure that taxes are being applied appropriately on cross-border transactions. Since the income is often taxed again in the Member State where the investor is resident, problems of double taxation can result. Investors do have the right to claim a refund when double taxation occurs but refund procedures are currently difficult, expensive and time-consuming.

Today's recommendations, developed alongside national experts, form part of the EU's Capital Markets Union Action Plan and should improve the system for investors and Member States alike. In particular, the Code of Conduct aims to reduce the challenges faced by smaller investors when doing business cross-border. It should result in quick, simplified and standardised procedures for refunding withholding taxes where appropriate.

Commenting on the Code of Conduct's launch, Valdis **Dombrovskis**, Vice-President in charge of Financial Stability, Financial Services and Capital Markets Union, said: *"This is yet another important building block on the road towards a true single market for capital. Today's Code of Conduct should help investors to avoid long delays and high costs when claiming withholding tax refunds. We will now work closely with Member States to make sure that the new Code of Conduct delivers tangible results."*

Pierre **Moscovici**, Commissioner for Economic and Financial Affairs, Taxation and Customs, said: "*While a very important tool for protecting public finances, withholding taxes can lead to a disproportionate burden on individuals and companies when it comes to seeking tax relief. My hope is that today's Code of Conduct will help EU countries to navigate the fine balance between ensuring a consistent tax collection on income and offering tax certainty to businesses that lose out on an estimated €8.4 billion in compliance costs each year.*"

Implementation of the Code of Conduct is voluntary for Member States. It provides a snapshot of the problems faced by cross-border investors and explains how more efficient tax procedures can be put in place. The Code outlines a range of practical ways for Member States to address key issues including:

- Measures to help smaller investors for whom the rules on the refund of withholding tax are overly complex;
- The creation of user-friendly digital forms to apply for withholding tax relief in the case of overpayment;
- A reliable and effective timeframe for tax authorities for the granting of withholding tax relief;
- A single point of contact in Member State tax administrations to deal with questions from investors on withholding tax.

Background

As set out in the Capital Markets Union Action Plan, the European Commission encourages Member States to adopt systems of relief-at-source from withholding taxes and to put in place better refund procedures. Today's Code is inspired by the nine best practices on withholding tax procedures identified by the Commission and Expert Group on barriers to free movement of capital.

A withholding tax refers to a tax that is paid at source when income is transferred cross-border rather than being paid by the recipient of the income. However, specific tax agreements between Member States often provide for a reduced tax burden as a means of encouraging investment. Complications can therefore arise when a withholding tax is applied to income which is eligible for a reduced level of taxation under such an agreement. When it comes to recovering tax that has been overpaid, the refund process can often be slow and cumbersome for the taxpayer. Compliance costs or foregone tax relief (some smaller investors do not even pursue possible tax repayments) cost EU investors an estimated €8.4 billion a year.

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