

Austrian Asset and Wealth Management News

Tax and Regulatory Reporting



Issue 14, September 2016

Editorial

Taking fund reporting to the next level



Dear Clients,

The new fund reporting regime has been in place for 3 months and has a significant impact on the way Austrian tax representatives need to structure their business, in terms of calculations and reporting. The new process is fundamentally different and takes the collaboration between Investment Management companies, fund administrators and Austrian tax representatives to the next level. Over the last 18 months we at PwC Austria had numerous conversations with many fund administrators to discuss the additional requirements with regards to the new reporting regime. It was important to get your views to ensure we have these in focus when optimising processes. At the same time we started to develop new tools and optimised processes in order to manage these upcoming challenges.

The aim of this newsletter is to provide you with a first status update after 3 very challenging months and to give you guidance on how to use the new OeKB website. You'll also find an update on the latest discussions within the Austrian fund industry.

Steinbauer

Thomas Steinbauer

The new fund reporting regime in Austria – An initial status update

On 6 June 2016 the Fund Reporting Ordinance 2015 entered into force. It is intended to harmonise the publication of Austrian tax figures for both domestic and foreign funds. Under the new regime it is possible to report much more detailed information on taxable income components, thus allowing full transparency so that all tax benefits can be reported to all investor groups investing in non-Austrian funds.

In the past, Austrian tax representatives calculated and reported the taxable income of investment funds, whereas under the new regime the different income components of domestic and foreign investment funds are reported to the OeKB.

PwC Austria calculates in further detail on the basis of the funds' tax accounting data the Austrian tax figures and reconciles the calculated figures with the audited financial statements. The different income components are then reported to the OeKB. The OeKB processes the different income components and calculates the taxable income in accordance with the legal requirements issued by the Austrian Ministry of Finance. PwC Austria verifies the tax figures in a second step and confirms to the OeKB that the tax figures are correct and ready to be published on the www.profitweb.at website.

In this issue

- The new fund reporting regime in Austria – An initial status update
- Update – Current discussions on the tax treatment of Real Estate Investment Trusts (REITs) in Austria
- Update on the EU Tax Amendment Act 2016
- Guidance on new OeKB website: Fund status check and the publication of tax figures

As the methodology for processing and reporting of Austrian tax figures changed significantly under the new regime, Austrian tax representatives had to develop new processes to meet the new requirements.

Communication with fund administrators

Over recent months PwC Austria has started to analyse the standard data packages which were usually received from all the different fund administrators to ensure that PwC Austria is able to provide the most comprehensive reporting for all clients. It was important to simultaneously start a dialogue with the relevant persons from the fund administrators to explain why the Austrian tax representatives need this additional information and to create a better understanding which challenges all parties are facing under the new regime.

One of the outcomes of the analysis and the discussions with the administrators was that the additional details can be provided by all administrators PwC Austria is working with. To ensure that the individually provided fund administrator data can be processed in the most efficient way, avoiding manual interference whenever possible, PwC Austria developed a new macro based Excel solution for the calculation of the Austrian tax figures.

These development measures meant that PwC Austria was able to offer the most detailed reporting (including dividends and WHT on country level) starting with the introduction of the new reporting regime beginning from June 2016.

Challenges in the day to day business

The introduction of a new reporting regime is always challenging, but besides the technical implementation of a new reporting process, the practical experience in the day to day interaction often implies difficulties which cannot be foreseen. So here is

a summary of our first impressions of the day to day challenges in connection with new reporting regime: The reporting process for the annual delivery of Austrian tax figures is very smooth, and according to the seven months reporting deadline the Austrian tax representatives have enough time to arrange the information exchange with the administrators and complete the reporting in a timely manner. Compared to the annual reporting, the distribution reporting is more challenging. It is extremely difficult for the tax representative to organise the information flow in a way that a timely reporting to the OeKB (one day before the pay-date) can be guaranteed. Especially for distribution, where the pay-date is scheduled 1-2 days after the ex-date, the relevant information is simply not available at an earlier (agreed) point of time and cannot be provided by the administrator to the tax representative.

In addition to the already very tight timeframe the reporting methodology changed to an interactive reporting and confirmation process between the OeKB and the Austrian tax representatives and thus became much more comprehensive. In the past, it was possible to report Austrian tax figures until midnight to the OeKB (which was very useful in the course of distribution and liquidation reporting). Now, however, the reporting process with the OeKB needs to be completed no later than 2.30pm each day, as otherwise it cannot be guaranteed that Austrian tax figures can be processed and published on the same day.

The 2.30pm deadline put an additional time pressure on the Austrian tax representatives as a delay of the reporting may have a major tax impact for Austrian investors.

PwC Austria is making every effort to ensure that the information flow between all parties involved (investment management company, administrator, PwC Austria) is organised

in the most effective way and that a timely reporting to the OeKB is possible. Furthermore, PwC Austria is in ongoing discussions with the relevant persons at the Austrian Ministry of Finance, the OeKB and the Austrian depository banks to optimise the process in place especially for the distribution and liquidation reporting.

In addition to this critical timeline, when it comes to the exchange of information minor issues can also delay the reporting process in the day to day business. The confirmation process between the Austrian tax representative and the OeKB can easily be interrupted if specific fund data in the database of the OeKB is not flagged correctly/consistently (e.g. the launch/closing date of a share classes varies, the fund type is flagged as investment fund instead of an AIF, etc.). In this case the tax data transfer cannot be processed until the information in the OeKB database is updated. The OeKB has to manually amend the respective core data and especially for large umbrella funds these corrections of core data may lead to a significant increase of correspondence and a possible delay of the reporting process.

PwC Austria is currently working very closely with the OeKB on a process for ongoing monitoring of funds' core data to reduce incorrect core data information to a minimum and to ensure a smooth reporting process in the future.

From our point of view the whole Austrian fund industry is currently in a learning process in which new tools are being developed, processes are being optimised and the new challenges in connection with the new reporting regime are being managed.



Author:
Stefan Perklin
stefan.perklin@at.pwc.com
+43 1 501 88-3735

Update – Current discussions on the tax treatment of Real Estate Investment Trusts (REITs) in Austria

Due to changes in the Austrian Real Estate Fund Act the Association of Foreign Investment Funds in Austria (VAIÖ) and the Association for Austrian Investment Funds (VÖIG) have entered into discussions with the Austrian Ministry of Finance on the treatment of Real Estate Investment Trusts (REITs) held by an investment fund with the objective to convince the Austrian Ministry of Finance to change its view that REITs have to be treated as transparent funds in Austria.

A REIT, which is not subject to a corporate tax comparable to Austrian corporate tax, generally qualifies as a (transparent) real estate investment fund. However, according to a guideline of the Austrian Ministry of Finance, REITs held by an investment fund could be treated as (non-transparent) equity in the past.

The Austrian Ministry of Finance was open for discussions and the Austrian tax representatives were also invited to provide their view on this issue. PwC Austria prepared arguments why the treatment of REITs held by an investment fund as equity should be still applicable and is also reasonable.

What's next?

At the moment there are ongoing discussions, but it can be expected that REITs held by an investment fund should be still treated as equity in the future. We will keep you posted as soon as there are any new developments.



Author:
Alexander Bauer
alexander.bauer@at.pwc.com
+43 1 501 88-3474

Update on the EU Tax Amendment Act 2016

Before the summer break the Austrian Parliament passed the EU Tax Amendment Act 2016 which includes the abolishment of the EU withholding tax methodology in Austria as well as minor amendments of the limited tax liability on interest income (foreigner withholding tax).

Abolition of the EU withholding tax system in Austria

In 2005 the EU Savings Directive (2003/48/EC) was implemented in EU Member States including associated and related territories as well as in certain non-EU Member States. The purpose of this was to ensure that private investors assess interest income from foreign deposits in their country of residence. Unlike most of the other Member States and due to the strict banking secrecy provisions in place, Austria decided to apply a withholding tax system instead of the exchange of information system.

Therefore, the interest paying agent is under an obligation to withhold a tax on interest payments accrued by a non-Austrian EU resident with an Austrian deposit (since 1 July 2011 the tax rate has amounted to 35%).

In a nutshell

Implications of the EU Tax Amendment Act 2016 for foreign investment funds in Austria

- Abolition of the EU withholding tax reporting as at 31 December 2016 and transfer to the exchange of information system – the Common Reporting Standard
 - ▶ No daily, periodical, annual reporting of EU withholding tax figures to the OeKB from 1 January 2017 onwards
- Abolition of the daily “foreigner WHT” reporting from 31 December 2016 onwards and no deduction of “foreigner WHT” in case of a sale of fund units
 - ▶ No daily reporting of “foreigner WHT” figures to the OeKB from 1 January 2017 onwards

implement a more global standard of mandatory and harmonised automatic exchange of information in the field of taxation – the Common Reporting Standard.

The Common Reporting Standard will be implemented via bilateral and multilateral agreements between the participating countries. The shared information will contain all transactions and personal information in connection with financial accounts which guarantee efficient taxation according to national laws. The European Union resolved in this regard a Directive which deals with the automatic exchange of information in the field of taxation in December 2014. However, Austria has an exceptional position in the implementation process of this Directive since it was granted a longer implementation period.

According to the EU Tax Amendment Act 2016, EU withholding tax will be deducted as at 31 December 2016 for the last time and therefore no daily, periodical, annual reporting of EU withholding tax figures to the OeKB for investment funds will be necessary from 1 January 2017 onwards. In addition, newly established deposits after 30 September 2016 will be exempt from the EU withholding tax if the interest income is reported according to the common reporting standard.

Amendments on limited tax liability on interest income – “Foreigner Withholding Tax” effective from 1 January 2017 onwards

General aspects

Under Austrian tax law, interest income from Austrian debt securities and from cash deposits with an Austrian bank received by a foreign investor is subject to limited tax liability in Austria and thus subject to 27.5% (in case of cash deposits with an Austrian bank 25%) Austrian withholding tax (hereinafter referred to as “foreigner WHT”) under the following circumstances:

- The foreign investor is an individual resident in a country which does not apply the Common Reporting Standard and
- the Austrian interest income is paid to the investor via an Austrian depository bank.

Investment funds

As investment funds are considered to be tax transparent according to Austrian tax law, interest income from Austrian debt securities and from cash deposits with an Austrian bank held by an Austrian or foreign investment fund is also generally subject to “foreigner WHT”

- if the fund’s investment in Austrian debt securities and in cash deposits with Austrian banks exceeds 15% of the fund’s total assets and
- if the fund shares are held on a deposit with an Austrian bank.

The fund’s interest income subject to limited tax liability has to be calculated by an Austrian tax representative. Based on these calculations, the Austrian depository bank deducts the “foreigner WHT” on distributed Austrian interest income and once a year on accumulated Austrian interest income. If no calculations are carried out by an Austrian tax representative, the following lump-sum taxation applies:

- The total distributions are subject to “foreigner WHT” and
- on 31 December each year 6% of the net asset value as at 31 December are subject to “foreigner WHT” and
- in case of a sale of fund units, 0,5% of the net asset value multiplied by the number of months from the beginning of the calendar year is subject to “foreigner WHT”.

Since the introduction of the “foreigner WHT” in 2015, the fund administrator/Austrian tax representative has had to report interest income from Austrian debt securities for in-scope investment funds on a daily and annual basis as well as in the case of distributions to the OeKB in order to enable Austrian depository

banks to deduct the “foreigner WHT” accordingly.

The EU Tax Amendment Act 2016 provides for the abolition of the daily “foreigner WHT” reporting for reporting funds by the end of 2016. Consequently, there will be no deduction of “foreigner WHT” in case of a sale of reporting fund units from 1 January 2017.

It is worth noting that the provision of the “foreigner WHT” is not applicable for most of the foreign investment funds, since the above mentioned thresholds are not fulfilled and therefore the funds have been out of scope for this kind of reporting in any case.



Author:
Birgit Leeb
birgit.leeb@at.pwc.com
+43 1 501 88-3638

Guidance on new OeKB website: Fund status check and the publication of tax figures

The new Fund Reporting Ordinance 2015 entered into force on 6 June 2016 and is intended to harmonise the publication of Austrian tax figures for both domestic and foreign funds. The following article will provide you with a brief overview on the new publication on the OeKB website:

Step 1:

Go to the www.profitweb.at website

Step 2:

Click on the link “Liste KEST-Meldefonds” in the middle of the start page as you can see below.

Step 3:

In the drop-down list, choose your company or fund and click on the “ERGEBNIS ANZEIGEN” button on the right. You can also search for a specific share class by entering the ISIN code in the first field.

Step 4:

You will be able to download the list in pdf or in xls format by choosing the preferred format and clicking on the “AKTION ANWENDEN” button at the bottom. By clicking “Steuerdaten” to the left you can access the overview of all tax publications for a share class.

Step 5:

In the “Steuerdaten” overview you can see a list of all publications since 6 June 2016. There are two kinds of publication either “Jahresmeldung” for annual deemed distributed reporting as at FYE or “Keine Jahresmeldung” for all other types of reporting (distribution reporting, liquidations reporting, etc.). By clicking on the date you can access the overview of the Austrian tax figures.

Art der Meldung	Melddatum	gültig bis	Geschäftsjahr Beginn	Geschäftsjahr Ende	Meldezeitraum Beginn	Meldezeitraum Ende	DL
Keine Jahresmeldung	19.07.2016		01.03.2016	28.02.2017	01.03.2016	31.05.2016	
Jahresmeldung	19.07.2016		01.03.2015	29.02.2016			

Step 6:

By clicking on the reporting date you can enter the publication of the tax figures. There are 117 positions altogether. You can see the extract of the most important figures on the right.

4.	Steuerpflichtige Einkünfte	0,0082	0,0082	0,0087	0,0087	0,0087	0,0082
4.1	Von den Steuerpflichtigen Einkünften endbesteuert	0,0082	0,0082	0,0075	0,0075		
4.2	Nicht endbesteuerte Einkünfte	0,0000	0,0000	0,0012	0,0012	0,0087	0,0082

6.1	Korrekturbeträge Korrekturbetrag ausschüttungsgleicher Ertrag für Anschaffungskosten (Beträge, die KEST-pflichtig oder DBA-befreit oder sonst steuerbefreit sind) Fußnote: umfasst keine AIF Einkünfte, diese sind im Wege der Veranlagung zu korrigieren Korrekturbetrag für betriebliche Anleger umfasst nicht nur KEST-pflichtige sondern sämtliche im Betriebsvermögen steuerpflichtigen Beträge aus Kapitalvermögen (ohne AIF-Einkünfte) Erhöht die Anschaffungskosten, Ausnahme Zwischenausschüttungen	0,0082	0,0082	0,0087	0,0087	0,0087	0,0082
6.2	Korrekturbetrag Ausschüttung für Anschaffungskosten bei InvF und AIF Fußnote: umfasst auch AIF-Einkünfte Vermindert die Anschaffungskosten. Dies gilt nicht für ImmoInvF und ImmoAIF, hier vermindert jede Ausschüttung die Anschaffungskosten	0,0000	0,0000	0,0000	0,0000	0,0000	0,0000

12.	Osterreichische KEST, die durch Steuerabzug erhoben wird	0,0023	0,0023	0,0023	0,0023	0,0023	0,0023
-----	--	--------	--------	--------	--------	--------	--------



Author:
Linda Hattas
 linda.hattas@at.pwc.com
 +43 1 501 88-3439

Who we are and how our Asset and Wealth Management team can assist you

We are the Austrian market leader with regards to the tax representation of foreign funds in Austria. Thus, our clients are benefiting from our extensive experience with the calculation of the annual DDI and distribution figures as well as the reporting process itself.

This includes also support with the implementation, analysis and testing of technical tax and regulatory reporting requirements for funds and fund management companies.

We use high-end technical infrastructure for data processing and have a dedicated team of eight senior staff and about sixteen junior level staff to support you with your business challenges.

Our Asset and Wealth Management Team

Thomas Steinbauer Asset and Wealth Management Leader Partner, Tax	+43 1 501 88-3639	thomas.steinbauer@at.pwc.com
Johannes Edlbacher Senior Manager, Tax	+43 1 501 88-3627	johannes.edlbacher@at.pwc.com
Barbara Pelz Senior Manager, Tax	+43 1 501 88-3437	barbara.pelz@at.pwc.com
Stefan Perklin Senior Manager, Tax	+43 1 501 88-3735	stefan.perklin@at.pwc.com
Thomas Vanas Senior Manager, Tax	+43 1 501 88-3746	thomas.vanas@at.pwc.com
Birgit Leeb Manager, Tax	+43 1 501 88-3638	birgit.leeb@at.pwc.com
Isabella Leutgeb Manager, Tax	+43 1 501 88-3424	isabella.leutgeb@at.pwc.com
Marius Muzik Manager, Tax	+43 1 501 88-3426	marius.muzik@at.pwc.com
Babitha Nangialil Manager, Tax	+43 1 501 88-3616	babitha.nangialil@at.pwc.com
Ewald Schwarzinger Manager, Tax	+43 1 501 88-3654	ewald.schwarzinger@at.pwc.com

PwC Austria
Erdbergstraße 200, 1030 Vienna
www.pwc.at

Copyright and Publisher: PwC Österreich GmbH Wirtschaftsprüfungsgesellschaft, Erdbergstraße 200, 1030 Vienna, Austria
Editor: Thomas Steinbauer, thomas.steinbauer@at.pwc.com
Distribution: Carola Soto Vallejos, please send an e-mail to carola.soto.vallejos@at.pwc.com to subscribe or unsubscribe to this newsletter

The above information is intended to provide general guidance only. It should not be used as a substitute for professional advice or as the basis for decisions or actions without prior consultation with your advisors. While every care has been taken in the preparation of the publication, no liability is accepted for any statement, option, error or omission.

PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see www.pwc.com/structure for further details.