Austrian Asset and Wealth Management News
Tax and Regulatory Reporting

pwc

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Editorial

Dear Clients,

The annual registration deadline with the OeKB is approaching and we would like to remind you to register any new share classes by 15 December 2015 in order to avoid lump-sum taxation at year-end.

Also, the year 2016 will bring with it two major tax changes to the Austrian fund industry. First, the tax rate for fund investments will increase from 25% to 27.5% as from 1 January 2016 onwards. Secondly, a more complex tax reporting process will be implemented on 4 April 2016. This new tax reporting regime also enables detailed reporting for non-Austrian funds on any tax free components for all investor types. As there are still some details to be finalised this year, we are planning a special issue early next year in order to inform you about the expected implications.

In the meantime, we wish you all the best for the coming holidays as well as a prosperous and successful 2016.

Thomas Steinbauer

Annual OeKB registration deadline – 15 December 2015

In order to avoid the deduction of a lump-sum tax on the deposits of Austrian private investors at calendar year-end, it is important to double check whether your records of share classes in which Austrian investors are invested are in line with the registered share classes in Austria.

Are you affected?

In both of the following two cases no action is required on your part:

- Your range of share classes subject to Austrian tax reporting has remained unchanged since the last annual tax reporting.
- You have already set up a process which ensures that all required share classes are registered with the Oesterreichische Kontrollbank ("OeKB") or you have agreed on a separate registration process with us.

If new or existing non-reporting share classes were distributed to Austrian private investors during this calendar year, the following applies:

Legal registration deadline

- Share classes which have been registered for public distribution with the Austrian Financial Market Authority (FMA) or
- Share classes which are not registered with the Austrian FMA for public distribution but have been sold on a private placement basis in Austria

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are to be registered as reporting funds with the OeKB by 15 December 2015 at the very latest.

Please note: The registration of share classes with the OeKB and therefore the Austrian tax transparency status of share classes for the calendar year 2015 will not be possible after this deadline. For share classes which are not registered by this deadline the lump-sum taxation applies as at 31 December 2015 for those Austrian private investors who hold such shares on an Austrian deposit.

Further steps

Please double check if all share classes in which Austrian shareholders are invested are in line with the share classes currently registered with the OeKB. If the registration of additional share classes as reporting funds is required, please get in touch with your main contact at PwC Austria.

Please also inform us if there are any share classes which no longer require the reporting fund status in Austria. We can take care of the deregistration of these share classes for you.

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Sustainable financial products – Certification of Austrian and foreign investment funds with the Austrian ecolabel ("Österreichisches Umweltzeichen")

The Austrian ecolabel for socially responsible investments, was created by the Austrian Ministry of Environment in 1990 to provide consumers with information on the environmental impact of consumer goods, and is awarded to companies with alternative environmentally friendly products. This label is well established among Austrian consumers and can be obtained in different business sectors.

Financial products such as Austrian and foreign investment funds are inter alia eligible to be certified with the Umweltzeichen if the Asset Manager and his sustainable financial products meet certain criteria.

Generally, two different types of investment funds qualify for the certification:

- Thematic funds with a focus on specific industries (e.g. clean energy) or
- Investment funds with a socially responsible investment strategy

Austrian market for sustainable financial products

Austria is traditionally a country with high values attached to ethical, socially responsible and sustainable business practices. Over the last few years the financial industry has faced increasing pressure from investors to look towards socially responsible products.

The Austrian asset management industry is largely driven by institutional investors like corporate and public pension funds, severance pay funds or insurance companies, which constantly enhance their investments in products certified with sustainable quality labels. Austrian private investors also tend to see more value in responsible investments. With this in mind, both Austrian and foreign asset managers have increased their focus on sustainable products fulfilling this demand in order to increase the competitiveness of their products on the Austrian market.

Umweltzeichen criteria

The Umweltzeichen mainly focuses on two different areas which need to be compliant:

- Processes in place with the asset manager (i.e. selection criteria, quality standards, etc.)
- Sustainable investment strategy of a specific product (investment fund)

In addition to these areas, the Austrian certification is based on exclusion criteria and norm-based screening, which means that the investment funds must not invest in nuclear energy, armaments (munitions and anti-personnel landmines) or genetic engineering. Furthermore, investments in businesses or countries with systematic violations of human and employment rights have to be excluded.

Changes in 2016

The Umweltzeichen guidelines are currently being modified, thus ultimately leading to even stricter requirements (e.g. extended exclusion criteria) in the future. The new certification guidelines are scheduled to be published in December 2015 and will become effective from 1 January 2016 onwards. Already certified investment funds will be granted a transition period until the end of December 2016 in order to comply with the new requirements.

How can PwC assist you?

PwC Austria as an authorised independent auditor can verify the qualification of your sustainable financial products (investment funds) for the Umweltzeichen. During the verification process PwC monitors your internal processes in place and reviews whether the sustainable investment strategy of your product fulfils all the relevant criteria. In case the investment fund qualifies for the Umweltzeichen, PwC provides a written report which will be recognised by the Austrian Ministry of Agriculture, Forestry, Environment and Water Management, and the sustainable financial product will be certified with the Austrian Umweltzeichen.

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The increase in Austrian withholding tax – effects for different investors

As mentioned in August 2015, new provisions introduced by the 2015/2016 tax reform will enter into force on 1 January 2016. With regard to investment funds the increase of the Austrian withholding tax ("KESt") from 25% to 27.5% will lead to various changes for investors.

Background

Investment funds are considered transparent under Austrian tax law. The fund's income is directly allocated to the investors – individuals, corporations and foundations. An investment fund's taxable income consists of various ordinary income components (dividend income/ interest income less expenses) and realised capital gains/losses (from the disposal of financial instruments, currency gains/losses) and a real estate investment fund's taxable income encompasses rental income less expenses, revaluation gains and other income. The new provisions of the 2015/2016 tax reform will increase the KESt to all proceeds from capital investments to 27.5% with one major exemption – interest payments from cash accounts and savings books. To simplify the taxation of investment funds, the various components of an investment fund's taxable income are all subject to a withholding tax rate of 27.5%. According to the accrual principle the increased tax rate of 27.5% will be applicable for a fund's distributions as well as annual deemed distributed income which is accrued by the investors as of 1 January 2016.

Private investors

Current legal situation	Future legal situation
Proceeds from capital investments received by an individual are subject to the same tax rate irrespective of whether these investments are held as part of their private or business assets – this tax rate being 25%. The deduction of the withholding tax by an Austrian paying agent ("bank") or an Austrian debtor of the capital income compensates for the assessment of the income tax. If the paying agent ("bank") is a foreign resident or the capital income is not subject to the special tax rate of 25%, the final taxation does not occur and the individual has to assess the capital income in their personal income tax return.	The new provisions of the 2015/2016 tax reform result in a higher tax burden for private investors as the deducted KESt on Austrian deposits as well as the Austrian withholding tax in the course of income assessment will increase by 2.5% to 27.5%.

Corporations and private foundations

Current legal situation

Under the Austrian Corporate Tax Act all proceeds of a corporation – i.e. also income from capital investments – are treated as income of trade or business and are subject to a corporate tax rate of 25%. With exemptions relating to a few provisions (tax exemption in case of participation of 10% in the receiving company or by submitting a declaration of exemption statement to the Austrian custodian bank), the withholding tax deducted from Austrian deposits on capital income amounts to 25%.

The proceeds from capital investments received by a private foundation are subject to an interim corporate tax of 25%. If the beneficiary receives the proceeds of the capital income, the levied interim corporate tax will be credited to the withholding tax.

Future legal situation

The higher deduction of withholding tax of 27.5% from 1 January 2016 onwards is also applicable for proceeds from capital income received by a corporation or a private foundation, while the corporate and interim corporate tax of 25% remains unchanged. As a consequence corporations and private foundations would have to retrieve 2.5% KESt when submitting their corporate income tax returns. A special provision which was incorporated in the course of the 2015/2016 tax reform enables banks to leave the withholding tax deduction at 25% in the case of capital income received by a corporation or a private foundation. In Austria there is a controversial debate as to whether banks will exercise the right to leave the withholding tax deduction at 25% in the case of capital income of corporations and private foundations.

The co-existence of two different withholding tax systems would lead to high administrative expenditures, and the development and maintenance of both systems would also lead to high costs. The issue of liability for the wrong utilisation of different withholding tax rates is also a problem which banks would have to deal with. Due to these problems with this special provision, the banks will probably not exercise this right and will consistently deduct 27.5% for all types of investors.

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Update:
New fund tax reporting ordinance coming into force on 4 April 2016

The final version of the OeKB's reporting tool applicable from 4 April 2016 onwards in connection with the new fund tax reporting ordinance ("Fonds-Meldeverordnung 2015", abbreviated as "FMV 2015") has recently been submitted to the Austrian tax representatives.

We are currently reviewing the tool and are intensively working on the adaption of our internal calculation systems and processes to be able to report the most possible details for all our clients. Generally, most of the required details are available in the standard data packages which PwC Austria usually receives from the funds' administrators, though it might be necessary in some individual cases for the fund administrators to provide some additional reports. If so, we will get in touch with the fund administrators in a timely manner to clarify which additional reports may be necessary for the calculations.
As there is still some need for clarification on the exact use and processing methodology of the reporting tool for the different reporting events (both annual and for distributions) we are holding a number of discussions with the major parties of the Austrian fund industry in order to introduce a reasonable implementation framework for future reporting. We assume that at the beginning of next year – hopefully by the end of February 2016/beginning of March 2016 – all open issues should be clarified in order to start with a feasible reporting process from 4 April 2016 onwards.

We will keep you updated as soon as we are able to provide feasible and reasonable solutions in connection with the implementation of the FMV 2015.

Below we have outlined the different tasks and responsibilities for implementing the FMV 2015

PwC Austria

PwC Austria will internally change the calculation system and processes to be able to report the tax base to the OeKB as from 4 April 2016.

PwC Austria / Fund Administrators

PwC Austria will get in touch with the fund administrators in a timely manner to clarify which additional reports to the currently provided standard data packages may be necessary for the calculations.

Apart from this, there will be no additional tasks.

PwC Austria / Fund Management Companies

PwC Austria will get in contact with the fund management companies regarding the core data update which is scheduled to be requested by the OeKB in February/March 2016.

Apart from this, there will be no additional tasks.

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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

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