Spotlight on:

Tax compliance obligations of Irish regulated funds

Contents

Introduction

The funds and asset management industry in Ireland has grown significantly since its establishment over 30 years ago – Ireland is now a clear domicile of choice for establishment of a fund vehicle.

According to recent figures released by Irish Funds[1], there are currently over 17,000 professionals across the country working in asset management, with almost 9,000 funds (inclusive of sub-funds) domiciled in Ireland with net assets exceeding €4bn as of January 2024.

There are wide range of legal vehicles available, in addition to different regulatory regimes:

Legal vehicle	Regulatory regime available
Irish Collective Asset-Management Vehicle (ICAV)	Can be regulated in accordance with either the UCITS or AIF regime
Investment / variable capital company (PLC)	Can be regulated in accordance with either the UCITS or AIF regime
Unit Trust	Can be regulated in accordance with either the UCITS or AIF regime
Investment Limited Partnership (ILP)	Can only be established as an AIF
Common Contractual Fund (CCF)	Can be regulated in accordance with either the UCITS or AIF regime

In practice, the optimal legal and regulatory combination will ultimately depend on factors such as the type of asset class expected, in addition to the profile of investors. From a tax perspective, the upfront and ongoing obligations of an Irish domiciled and regulated fund vehicle will ultimately depend on the legal nature of the vehicle. This report provides an overview of the various tax compliance obligations which can arise across each type of legal vehicle.

1 https://www.irishfunds.ie/

Summary of tax compliance obligations

There are three different levels which tax obligations can arise at in the context of an Irish domiciled and regulated fund vehicle:

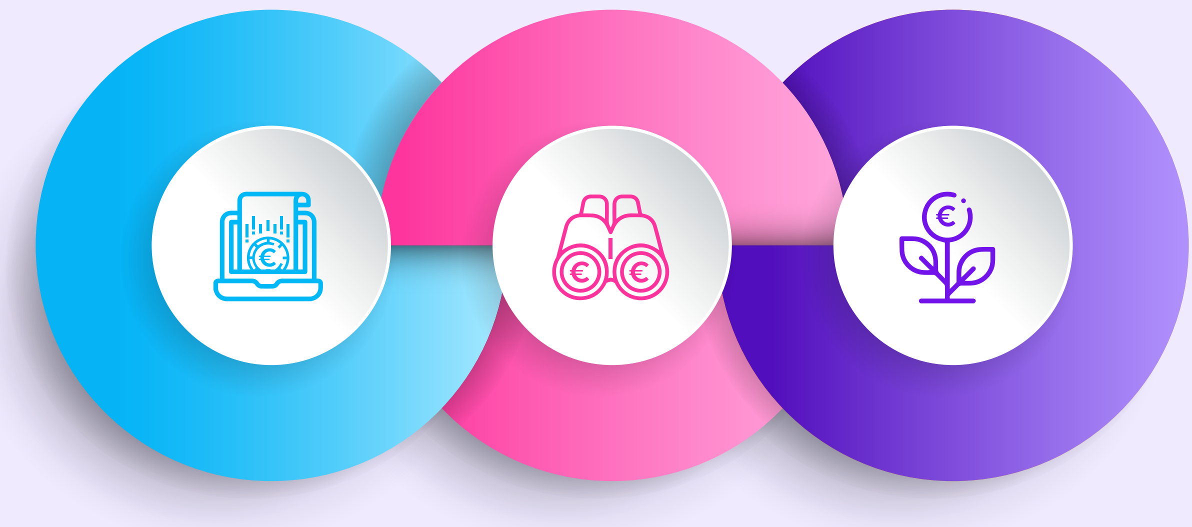
Overview of possible tax requirements

There are a broad range of tax requirements that will be relevant to the ongoing operation of the fund –

Fund Level – requirements applicable to the fund vehicle itself i.e., filings which it has to submit and taxes it has to directly return to the Irish Revenue Commissioners

Investor Level – obligations in respect of investors in the fund e.g., reporting of information to investors to ensure they achieve a tax efficient outcome in respect of the return they earn from the fund.

Investment Level – taxes which arise based on the portfolio of the fund i.e. non-Irish withholding tax, securities transfer tax and / or capital gains tax, including filings obligations in some jurisdictions of investment



Fund Level

- Tax Registration
- FATCA and CRS registration & ongoing assistance
- VAT compliance
- Payroll tax compliance
- Investment Undertaking Tax
- Other filings / elections e.g. IREF

Investor Level

Investor tax reporting services in respect of the following regimes:

- UK reporting fund regime
- Austrian tax calculations & OeKB reporting
- Swiss taxable income calculations
- US investor requirements (PFIC or K1, as applicable)
- Belgian / Italian / German tax calculations

Investment Level

- Withholding tax efficiency analysis i.e. reviewing portfolio to identify any reclaim opportunities
- Assistance with completion of tax documentation
- Withholding tax reclaims – domestic, treaty and EU claims
- FIN 48 / IFRIC 23 investment level reviews

Although regulated funds domiciled in Ireland should not typically be subject to Irish tax in respect of their investment return, they can have tax obligations across each of the levels noted above. The table below outlines circumstances whereby compliance obligations can arise for each type of vehicle.

Fund Type	Tax registration (1)	Annual / ongoing fund level filing (2)	VAT (3)	Payroll (4)	FATCA/CRS (5)	Investor tax reporting (6)	Investment level tax obligations (7)
ICAV	✓	✓	Refer to note (3)	✓	✓	Refer to note (6)	Refer to note (7)
PLC	✓	✓	Refer to note (3)	✓	✓	Refer to note (6)	Refer to note (7)
Unit Trust	✓	✓	X	X	✓	Refer to note (6)	Refer to note (7)
ILP	✓	✓	Refer to note (3)	X	✓	Refer to note (6)	Refer to note (7)
CCF	✓	✓	X	X	✓	Refer to note (6)	Refer to note (7)

Notes:

(1): As all fund types are required to submit ongoing filings, all must register for Irish tax with the Irish Revenue Commissioners.

(2): All fund types must submit some form of ongoing filing to the Irish Revenue Commissioners. An ICAV, PLC and unit trust must all submit IUT returns whereas both a CCF and ILP submit a single return per annum (a Form CCF1 and Form ILP1 respectively).

(3): In principle, an Irish regulated fund is generally not required to charge VAT in respect of its activities except usually for those involved in Irish real estate transactions. The VAT obligations for a unit trust and CCF are normally dealt with by the management company, given their legal nature. In practice, an ILP may be placed in a VAT group with its GP or management company, which requires consideration on a case-by-case basis.

(4): Only corporate funds such as an ICAV or PLC will appoint directors and therefore have a payroll tax obligation. In other cases, the payroll tax obligation could apply at the level of the management company or GP (in the case of an ILP).

(5): In practice most regulated investment funds will fall within the scope of FATCA / CRS and be required to register / report on an ongoing basis. That said, there are some cases in practice where exclusions can apply and as a result, it is recommended to perform an upfront entity classification when the fund is formed, to support its approach to ongoing compliance.

(6): Investor reporting requirements will depend on the profile of the investors in the fund and where the funds are distributed – in some investor jurisdictions tax reporting is a commercial requirement and can enhance ability to distribute the fund. In respect of funds which are transparent for tax purposes (i.e. ILPs and CCFs), investors may require information regarding return earned by the fund however there is no standard form or format of reporting.

(7): Investment level tax considerations are typically applicable to most fund types.

Fund level tax compliance

Fund level tax return (ICAV,PLC,Unit Trust)– Investment Undertaking Tax return (IUT)

Certain types of regulated investment funds such as ICAVs, PLCs and unit trusts are subject to a specific "exit tax" regime in respect of payments to certain categories of investors. This exit tax is formally known as "Investment Undertaking Tax" or "IUT" and must be deducted by the fund (usually by the fund administrator on its behalf in practice) on the occurrence of any on the following events in respect of an investor.

- any payment to an investor by the fund in respect of their shares in the ICAV
- any transfer, cancellation, redemption or repurchase of shares in the fund and
- the ending of any period of eight years from the acquisition of shares by an investor in the fund (when the investor will be deemed to have disposed of their shares for tax purposes) and each subsequent period of eight years beginning immediately after the preceding relevant period.

On the happening of any of the above, the fund will in principle be required to deduct an amount of tax on any payment made to an investor in respect of the event. Where no payment is made by the fund to the investor in respect of any of the above (e.g., a deemed disposal), the fund is usually entitled (once provided for in its prospectus) to appropriate or cancel the required number of shares to meet the tax liability.

There are exemptions from the exit tax regime for investors that are neither resident nor ordinarily resident in Ireland. There are also exemptions for certain domestic Irish investors such as pension schemes, charities, life businesses, and other Irish regulated funds. These exemptions will only apply provided the investor has made an appropriate declaration to the fund evidencing non-residence or exempt status (or if the fund has specific Revenue approval that declarations are not required)

The fund will be required to file two IUT returns per annum:

- Period from 1 January to 30 June – by 30 July
- Period from 1 July to 31 December – by 30 January

The return filing obligation arises irrespective of whether the fund has been required to deduct any IUT i.e. nil returns are required. In cases where IUT liability arise there is a requirement to file an information return- S891c annually.

Fund level tax return (CCF) – Form CCF1

A common contractual fund is transparent for Irish tax purposes and is therefore not subject to the IUT regime noted above. However, it is required to file a different annual return which effectively discloses the split of the profits arising to the vehicle across its investors – this return is information only and does not give rise to any tax for the vehicle. The return form must be filed by 28 February following the year of assessment.

Fund level tax return (ILP) – Form ILP1

An investment limited partnership is transparent for Irish tax purposes and is therefore not subject to the IUT regime noted above. However, it is required to file a different annual return which effectively discloses the split of the profits arising to the vehicle across its investors – this return is information only and does not give rise to any tax for the vehicle. The return form must be filed by 28 February following the year of assessment

Fund level tax return – IREF regime

An additional tax regime applies in respect of certain funds which are considered Irish Real Estate Funds (IREFs), which will typically be the case where the fund (or sub-fund) invests more than 25% of its assets in Irish real estate or related assets. Additional return filing and payment obligations can arise for such funds including the requirement to file an annual income tax return.

Value Added Tax (VAT)

In principle, an Irish regulated fund is generally not required to charge VAT in respect of its activities except usually for those involved in Irish real estate transactions. However, to the extent that the fund receives services from a provider in a jurisdiction other than Ireland, a VAT registration obligation may arise. This is based on the following "place of supply" rules which apply to services provided across the EU for VAT purposes.

- where a service is provided between two entities in the same jurisdiction, the obligation to determine the appropriate VAT treatment rests with the supplier of the service. In such instances, the supplier of the service will apply any VAT arising to the invoice, with the recipient of the service paying the VAT inclusive amount and therefore not having any VAT compliance obligation

- where a service is provided by an entity which is established outside of a jurisdiction, the "place of supply" of the service for VAT purposes will be the recipient jurisdiction and the recipient of the service will be considered the "accountable person" for VAT purposes. As the "accountable person", the recipient must assess whether to self account for Irish VAT under the "reverse charge" principle. There is no de minimis monetary threshold and any VAT arising will be paid directly to the local tax authority by the recipient.

Where a fund is required to register for VAT it will generally be required to complete six bi-monthly VAT returns per year filed on a calendar two-monthly basis. The returns are filed online on Irish Revenue's ROS system. In addition, the Annual Return of Trading Details ("ARTD") is an annual statistical return required to be filed by each VAT registered person in Ireland which records net values and VAT rates applicable to sales, purchases, reverse-charge services, and intra-community acquisitions made by the VAT registered person during the year. The ARTD is issued annually to coincide with a VAT registered trader's financial year.

Although entities which are usually exempt from VAT in respect of their own activities, regulated funds can recover VAT incurred on their costs to the extent to which they carry out financial transactions with non EU persons and based on agreed practice with the Irish Revenue, often the NAV of non EU investments to total investments is used to calculate this VAT recovery entitlement. The recovery rate used by a fund (and its sub-funds, if VAT recovery is also computed on a sub-fund level) needs to be reviewed each year based on the activities of the fund / sub-funds in the year in question. In practice, this typically involves the application of an estimated recovery rate in the year of trading (based on the prior year's activities) and a post year end look back over the recovery rate(s) applied and an adjustment in respect of the VAT recovered at the estimated rate(s).

Not all fund types will be required to register for VAT as the VAT obligations for a unit trust and CCF are normally dealt with by the management company, given their legal nature but VAT still has to be accounted for and recovered (where recovery is available) based on the individual trading position of each fund. In addition, an ILP may often be placed in a VAT group with its GP or management company, which requires consideration on a case-by-case basis.

Payroll tax obligations in respect of directors

A director (including a non-executive and/or non-resident director) of an Irish fund is liable to income tax and the Universal Social Charge deducted at source on payments made to them in respect of their duties as a director – the obligation to deduct the relevant taxes rests with the fund. Payroll taxes deducted must be remitted to Irish Revenue on an ongoing basis in respect of fees for director services, irrespective of whether the payment is made to a company (e.g. a management company which the director is employed by).

FATCA

What is FATCA?

FATCA (Foreign Account Tax Compliance Act) is an Automatic Exchange of Information ("AEOI") regime enacted by the United States and adopted into domestic Irish tax legislation with reporting on financial accounts via the Irish Revenue Commissioners ("Revenue") on an annual basis for onward exchange with the IRS.

It was introduced in an effort to increase transparency and deter tax evasion by US individuals, entities and certain non-US entities that are owned or controlled by US controlling persons that have foreign investments.

FATCA requires Foreign Financial Institutions ("FFIs") outside the US to register with the IRS and report details of their investors on their annual FATCA return. Most Irish regulated funds are regarded as FFIs and are in scope of FATCA however in some circumstances exemptions could apply and entity classification is therefore recommended.

General

FATCA requires FFIs to report information on accounts held by specified US persons (US citizen and tax resident individuals and US entities) and certain other investors.

FFIs are required to register with the IRS to obtain a Global Intermediary Identification Number ("GIIN").

Failure to comply with the relevant FATCA regulations may result in a 30% withholding tax penalty on certain US Source

FATCA reporting requirements in Ireland

Irish reporting FFIs are required to file an annual FATCA return with Revenue via Revenue Online Service ("ROS") on or before 30 June with respect to the previous calendar year.

In order to file a FATCA Return via ROS, Irish reporting FFIs are required to have an Irish tax reference number and complete a once-off FATCA reporting registration.

Even if an Irish reporting FFI does not hold any US reportable accounts, it will still be required to file a nil FATCA return annually with Revenue.

If an Irish entity is not classified as an FFI, it should be classified as an NFFE with no FATCA registration or reporting obligations. However, it may be required to disclose its controlling persons (as defined), which are specified US persons when completing a FATCA Self Certification Form.

Key dates and deadlines

- **FATCA GIIN registration:** No later than 30 days after the entity becomes an Irish reporting FFI.
- **FATCA reporting:** Irish reporting FFIs are required to file an annual FATCA return on or before 30 June with respect to the previous calendar year.
- **Due diligence:** The due diligence requirements under FATCA vary depending on whether the account is a new account or a pre-existing account, an entity account or an individual account and whether an individual account is a low value account or a high value account. Ongoing FATCA due diligence obligations should be completed throughout the year.

CRS

What is CRS?

The Common Reporting Standard ("CRS") is effectively a global version of FATCA that was introduced by the OECD in an effort to increase transparency and deter tax evasion by individuals and entities that have foreign investments.

As with FATCA, most Irish regulated funds will fall within scope of CRS however in some circumstances exemptions could apply and entity classification is therefore recommended.

CRS reporting requirements in Ireland

Irish reporting FIs are required to file an annual CRS return with ROS on or before 30 June with respect to the previous calendar year.

In order to file a CRS return via ROS, Irish reporting FIs are required to have an Irish tax reference number (e.g. Corporation Tax, Investment Undertaking Tax, Income Tax etc.) and complete a once-off CRS reporting registration.

Where an Irish reporting FI does not have an Irish tax reference number, it can file a "Reporting Entity Registration Form" with Revenue to register its CRS reporting obligation and obtain an AEOI registration number to facilitate filing its Irish CRS Return.

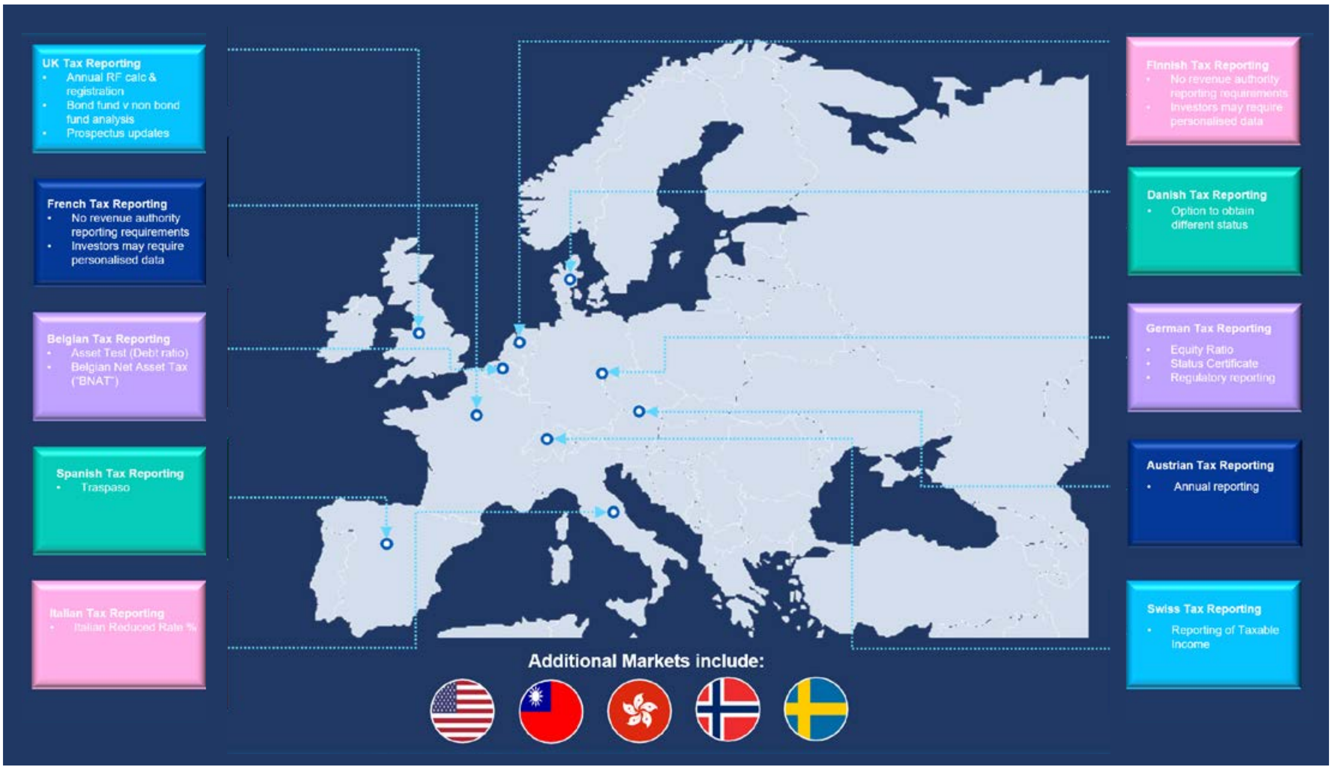
Even if a reporting Irish FI does not hold any reportable accounts, it will still be required to file a nil CRS return annually. It is important to note that the requirement for an FI to file a nil CRS return may differ between jurisdictions.

Key dates and deadlines

- CRS reporting: Irish reporting FIs are required to file an annual CRS Return on or before 30 June with respect to the previous calendar year.
- Due diligence: The due diligence requirements under CRS vary depending on whether the account is a new account or a pre-existing account, an entity account or an individual account, and whether an individual account is a low value account or a high value account. Ongoing CRS due diligence obligations should be completed throughout the year.

Investor Level Tax Compliance

In order to distribute products across Europe and other core investor jurisdictions, asset managers should have an understanding of ever-changing tax reporting requirements for investors.



Investor tax reporting requirements may be applicable across key investor tax reporting jurisdictions such as the UK, Austria, Switzerland, and the US. An overview of the key jurisdictions and requirements is noted below.

UK Reporting Fund Status

Non-UK funds which are distributed into the UK can apply for UK reporting fund status to secure beneficial tax treatment for UK tax resident investors on the overall return from their investment.

The UK reporting fund regime is an optional regime for offshore funds distributed into the UK however non-compliance with the regime will generally render the non-UK fund unattractive to many types of UK resident investors. The application for entry into the UK reporting fund regime must be submitted by the end of the first accounting period that the relevant share class of the fund is to be treated as a reporting fund.

Once registered as a UK reporting fund, a fund must provide details of its reportable income per share for the share classes in the fund that have entered the reporting fund regime. This information must be reported to both HMRC (UK tax authority) and to investors within ten months of the end of the fund's accounting period. To the extent that the reportable income of the fund exceeds the amount of any distributions paid, this 'excess' is treated as an additional distribution in the hands of the investors holding shares at the end of the relevant accounting period. It is deemed to have been received six months after the end of the accounting period. Investors will use the reports of excess reportable income when completing their tax returns.

When a fund is considered a reporting fund – the UK private investors in the fund will be subject to more favourable capital gains tax rules rather than income tax rules which can potentially see them pay materially higher tax rates in respect of gains realised from offshore fund investments.

Austrian Reporting

Under Austrian tax rules, all undistributed income from investment funds is deemed to be distributed to its investors pro-rated to their respective shareholding in the investment fund. Austrian investors are therefore subject to annual taxation regardless of whether the income of the fund is actually distributed or accumulated.

The OeKB Bank is an Austrian intermediary bank that provides Austrian depository banks with the relevant tax information. Upfront registration of share classes with the Austrian OeKB bank is required for reporting purposes and the deemed distributed income (DDI) must be calculated and electronically filed by an Austrian tax representative.

If a fund does not report its annual Austrian (DDI) to the OeKB the fund will be considered a non- reporting fund "Black Fund" with the result that the investors will suffer a "lump sum" taxation at year end which is less favourable than the portion of taxable income that would have been determined for a reporting fund.

The deadline for registration to avoid a "lump sum" taxation is the 23rd of December before the relevant year end. The annual filing is due 7 months after the year end.

German Investment Tax Act

The main body of regulations affecting foreign funds is the German Investment Tax Act, which was extensively revised in 2018. The reform aimed to simplify the tax requirements for foreign funds to meet their investor needs. Investors are now taxed at a flat rate with no requirement for daily tax reporting.

German resident investors in an investment fund are subject to taxation on:

Distributions: distributions to a German resident investor are subject to taxation in the fiscal year in which the distribution is paid to the investor, or if earlier, reported by the investor.

Capital gains: capital gains are subject to taxation in the fiscal year in which the proceeds are received or credited for the account of the investor.

If a fund has German investors or is a target fund for funds that have the German market in their focus, the fund should publish its equity ratio on WM-Daten, in order to ensure that the correct exemption rates are applied by German paying agents in the context of German investors.

Since the introduction of the new German Investment Tax Act (GITA) in 2018, German investors owning UCITS are subject to advance lump sum taxation.

German Regulatory reporting

Certain German institutional investors may also require regulatory reporting such as VAG, Solvency II or GroMiKV reporting.

Swiss Annual Reporting

Swiss private investors must declare their taxable income (i.e. their net ordinary income) and the value of the investment in their tax return. Based on Swiss calculation principles, it is necessary to ascertain the taxable income in order to separate it from tax-exempt capital gains.

Therefore, Swiss resident individual investors who hold units in a foreign fund are reliant upon the fund to report its Swiss taxable income figure and net wealth values on the "Kursliste/Liste de Cours" of the Swiss Federal Tax Administration (SFTA), in order to complete their annual tax return. This enables Swiss resident individual investors to distinguish the tax-exempt portion (i.e. capital gains/certain income) of their investments from the taxable portion (i.e. interest and dividends).

Non-Swiss investment funds that are registered for distribution in Switzerland are not legally obliged by the Swiss regulator FINMA to annually submit the Swiss fund tax reporting to the Swiss tax authorities but it is a strong market practice. Swiss fund tax reporting includes the calculation of the taxable income as well as of the wealth value of the funds' units based on Swiss tax rules stipulated. However foreign funds that have been admitted for public distribution in Switzerland are required by FINMA Regulation to report such tax information.

If a fund does not report this information, the Swiss investors may face an unfavourable tax treatment (tax-free capital gains may be treated as taxable income). Providing Swiss tax reporting is usually a required condition in order for a fund to be included on the lists of recommended fund investments at the majority of Swiss banks.

There is no advance registration required and there is no official deadline in Switzerland to publish these results. However, it is generally recommended to publish income tax figures by April / May of the year following the fiscal year end of the fund as Swiss resident individual investors are generally starting with the preparation of their tax returns at that time.

Italian Bond Reporting

Since 2014, profits from UCITS have been generally subject to a 26% final taxation (in lieu of the previous 12.5% tax rate). Profits deriving from direct investment in eligible bonds (Italian government bonds and other eligible securities, including government bonds issued by countries allowing an adequate exchange of information with Italy (the so called "whitelist") continue to be subject to the lower 12.5% tax rate.

There is a methodology to determine the portion of profits derived from funds (investing directly and/or indirectly in eligible bonds) that should be exempt from the 26% tax rate. The taxable base of the proceeds is reduced by an amount in order that the actual withholding tax rate suffered on these eligible bonds is 12.5% instead of 26%. Fund tax reporting is not mandatory; however, without the necessary reporting Italian investors are unable to obtain beneficial tax treatment.

To identify the portion of profits/losses associated with 'indirect' investment in eligible bonds, it is necessary to determine an average percentage. This is calculated based on the ratio between the value of the eligible bonds and the total asset value (net of any 'tax asset') over the fund's last two available financial statements (semi-annual or annual).

There are no registration requirements from a tax perspective and no requirement to forward the information directly to the Italian tax authorities.

Distribution Reporting

When an Italian individual investor holds shares or units of an Italian, EU or EEA mutual fund, taxable income that may arise from such investment qualifies as "Income from Capital" which is subject to a 26% tax. However, capital repayments should generally not be subject to withholding tax. Therefore, in case of cash distributions, the Fund may provide a declaration stating the portion of "Income from Capital" (taxable) and the portion of "Capital Repayment" (non taxable).

Reporting is not mandatory, however, without it, Italian investors in the Fund that receive cash distributions will be taxed at the higher rate.

There are no registration requirements from a tax perspective.

Belgium

Belgian Net Assets Tax ("BNAT")

Foreign funds registered with the Belgian Financial Services and Markets Authority ("FSMA") are subject to an annual tax of 0.00925% on the total of the "net outstanding amounts in Belgium" (i.e., shares issued by intervention of a Belgian financial intermediary), as of 31 December the previous year. A lower rate of 0.01% applies for institutional only shares. The BNAT return and payment is due annually, before 31 March, based on a tax year corresponding with the calendar year.

Where the shares 'outstanding in Belgium' are nil, it is recommended that a 'Nil' return is filed within the normal timeframe of 31 March post the relevant 31 December.

This is a fund level tax, which does not have a specific registration. The requirement to file is driven by whether the fund is registered with the FSMA.

Belgian Tax on saving income.

For Belgian citizens, a portion of the capital gains realised on shares of collective investment funds investing more than 10% of their assets in debt claims are subject to a withholding tax of 30%. equity funds may fall within this definition depending on their circumstances at the relevant point in the year that the asset test is carried out.

The asset test can be calculated to enable Belgium citizens to determine the portion of the capital gains subject to this taxation. The asset test for a financial year is valid as of the 1st day of the fifth month after that financial year end.

For bonds and mixed funds the Belgian Taxable Income per Share ("BTIS") can be reported and provided to the Belgian paying agents for private investors. The daily BTIS figure determines the income portion subject to taxation.

The capital gains for private investors are taxable based on the asset test and the BTIS ratio. In the absence of this information, 100% of the capital gains will be taxable.

An asset test should be calculated to determine the portion of capital gains subject to the taxation. This asset test is valid for one year and should be published within five months after the financial year-end. For bonds and mixed funds falling within the scope based on the Asset test the "BTIS" must be reported daily (NAV frequency) and provided to the Belgian paying agents for private investors. The daily BTIS figure determines the income portion subject to taxation.

There is no registration requirement for the asset test or calculating the BTIS.

Norway

There are no Norwegian investor reporting tax requirements at a fund level for non-Norwegian Funds. However, in practice many funds try to provide Norwegian investors with the information they are required to provide to the tax authorities.

Norwegian resident funds are obliged to report information to the tax authorities annually to determine the portion of share interest in the fund at year-end. Non-resident funds may however also provide information to the tax authorities.

If no information is provided by the fund, distributions will be treated as interest for tax purposes.

Denmark

There are several different options regarding a foreign fund's Danish tax qualification, which are aimed at reducing the tax burden for Danish investors in respect of cross border investments:

- Obtain share based IMB status
- Opt to be qualified as a 'share based investment company'
- Do not opt to be qualified as a 'share based investment company' / Do not obtain share based IMB status

The taxation of the Danish investor will depend on which of the above options are chosen.

If the foreign funds do not opt for a status, they should be qualified as bond based investment companies going forward.

US

The specific form of US tax reporting that will be required is generally dependent on the specific nature of the relevant fund vehicle e.g. where the fund is a partnership for US tax purposes, investors will typically require Form K-1s on an annual basis. Alternatively, where the fund is a corporation for US tax purposes, certain investors will require PFIC statements on an annual basis to allow them make a QEF election and not be subject to relatively adverse taxation of their return.

CFC and other forms of reporting can also be required by some US investors, depending on the specifics.

France

There are no reporting requirements in practice for foreign funds, however generally French investors may seek specific reporting in relation to their investments in French funds, and many French high net worth individuals are likely to look for such information to flow to them from investments in non-French funds. Providing the required information can be a commercial driver to attract French high net worth individuals to the fund.

Sweden

Swedish reporting obligations only apply to a fund if it had Swedish resident shareholders at any point in the relevant accounting period (and it would be done at an investor level). This reporting is completed on an annual basis and should include details of:

- distributions
- redemptions and sales
- the notional fund income (Sw. schablonintäkt)

In practice a Swedish individual investor may seek this information from the fund.

Spain

Spanish investors in mutual funds can, under certain conditions, benefit from a tax deferral scheme called "Traspasos".

Normally capital gains from any disposal of fund units are fully taxable for investors. However the fund can choose to become "Traspaso-eligible". Being a "Traspaso-eligible" fund allows investors to switch their shareholding from that fund to another "traspaso-eligible" fund tax free.

The regime enables investors in non-Spanish domiciled funds to receive the same tax-free fund switching that is available to investors in Spanish domiciled funds. Certain conditions must be satisfied by the fund and by the Spanish distributor.

Under the scheme, the fund is required to communicate (on an annual basis) whether it is fulfilling the requirements to be "traspaso-eligible" or not to the Spanish management entity / the Spanish distributor.

The fund is required to communicate certain specified information, including the number of shareholders, total equity of the fund etc to the Comisión Nacional del Mercado de Valores ("CNMV") within one year of the accounting year end date of the Fund.

If the requirements are not fulfilled, an investor would not have the ability to participate in the tax-free fund switching.

Investment Level Tax Considerations

Capital Gains Tax

In some investment jurisdictions, a fund may have a local tax filing and payment obligation to the extent it realises a gain on disposal of investments domiciled in that jurisdiction. In practice, the extent to which this is required will depend on the jurisdictions of investment and types of investments held.

In tandem with the potential requirement to pay tax and file a return, it can also be necessary to consider if there is a need to account for uncertain tax positions in relation to investment jurisdiction capital gains tax. This would be the case where a fund prepares its accounts in accordance with U.S. GAAP (as it is required by ASC 740 / FIN 48) or other accounting standards such as IFRS or FRS 102 (as it is required by IFRIC 23).

Uncertain tax positions can arise where a fund invests in a jurisdiction with domestic tax legislation that imposes a capital gains tax payment and / or filing obligation on a non-resident (in this case a fund) deriving investment return from the jurisdiction. For example, where a fund disposes of Spanish equities, Spanish tax legislation imposes a technical obligation to register and pay tax in Spain in relation to any gains realised unless a specific exemption applies.

There is typically a need to perform ongoing monitoring of potential investment level tax exposures in light of the above. This is particularly relevant where the fund is transparent for tax purposes (e.g. an ILP) as any exposure will likely be attributable to investors.

Dividend and interest withholding tax

To the extent a fund earns investment return, withholding taxes are likely to be applied depending on the jurisdiction of investment. In some cases, funds can self-declare entitlement to reduced rates of withholding tax e.g. where they are entitled to a reduction under a tax treaty or domestic law.

Withholding tax management is attracting increased focus from directors and investors, given the potential impact on NAV for some funds. Whilst the ability to reclaim or identify opportunities may appear unclear, KPMG can help fund promotors and investors succinctly identify any opportunities, in addition to providing clear guidance on country specific issues such as likelihood of refunds issuing.

There are three separate mechanisms under which it may be possible to reduce or reclaim withholding tax:

1. **Domestic tax legislation –** certain investment jurisdictions have exemptions or reductions in the withholding tax rate applicable under domestic tax law where certain conditions are satisfied.
2. **Double Tax Agreements** – the Double Tax Agreement between fund and investment jurisdictions could reduce the level of tax where a fund has an ability to access it.
3. **EU anti-discrimination procedures** -Case law precedent from the CJEU can allow for a reclaim where it has been held by the CJEU that domestic withholding tax rules in an investment jurisdiction is in violation of the Treaty on the Functioning of the EU.

These mechanisms are not mutually exclusive and therefore it is possible to utilise more than one approach in practice e.g. utilise domestic relief to reduce WHT initially before reclaiming a full exemption further to either (or both) or the other two mechanisms where applicable in respect of a particular jurisdiction.

In practice, the requirements to avail of each mechanism can differ. Where relief at source is available, this usually requires completion of specific documentation upfront and where available, this is usually a preferred approach (given the time delay that can be involved in reclaiming tax in some countries).

One or more of the above mechanisms are often overlooked in practice, leading to unnecessary tax leakage being suffered by funds in respect of their return. Depending on the jurisdiction, the reclaim procedures can be quite a straightforward and cost-efficient way to increase NAV.

Full-scale tax compliance solution for funds

Why Choose KPMG Fund HUB?

Fund HUB offers a comprehensive solution tailored to address the specific needs of investment funds and their managers. By centralising all tax compliance services into a single platform, **Fund HUB streamlines processes and eliminates the complexities** associated with managing multiple vendors.

Powered by advanced technology, including Power BI dashboards and reporting, **Fund HUB provides clients with real-time visibility** into workflow status and actions.This transparency enables informed decision-making and enhances compliance accuracy. With Fund HUB, fund managers can access expert support and resources to navigate the complex landscape off fund tax compliance efficiently and effectively.

The Benefits

Streamlined Compliance

Fund HUB consolidates all tax compliance services into one integrated platform, reducing the need for multiple service providers and simplifying the compliance process.

Central Point of Contact

With Fund HUB, there is a single point of contact for all tax compliance needs, eliminating the hassle of coordinating with multiple vendors.

Real-Time Visibility

Gain instant access to live status updates of workflows and actions through Power BI dashboards and reporting, ensuring transparency and informed decision-making.

Expert Support

Access to a team of tax experts and professionals ensures that clients receive expert guidance and support throughout their compliance journey, providing peace of mind and confidence in their tax obligations.

Efficiency and Time Savings

By automating processes and providing a digital platform, Fund HUB saves valuable time for asset management professionals, allowing them to focus on core business activities.

Customised Reporting

Tailored reporting capabilities within Fund HUB enable clients to generate custom reports based on their specific requirements, providing insights for strategic planning and compliance management.

Scalability

Whether managing small portfolios or a large-scale operation, Fund HUB is designed to scale according to your needs, accommodating growth and evolving tax and regulatory requirements seamlessly.

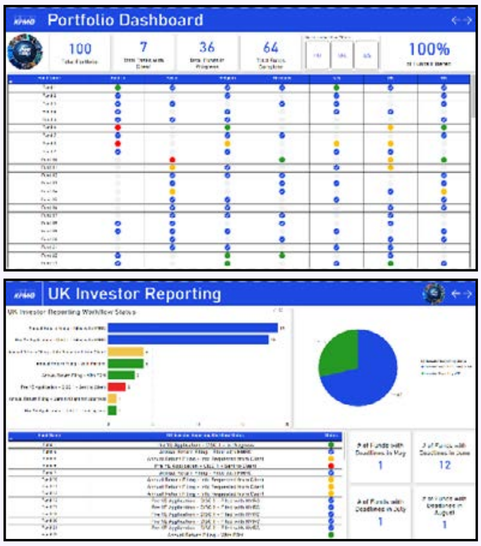
Technology is core to our offering

Through our proprietary platform "Fund HUB" and automated Power BI dashboards, we provide a seamless user experience, and a full fund overview through real-time status updates. Fund HUB delivers innovation, offering a comprehensive solution that streamlines tax reporting workflows and ensures unparalleled efficiency and accuracy in tax compliance management.

Access real-time dashboard via our cloud-based platform, offering you immediate access to and visibility to the status of tax services relating to your fund portfolio.

Track and monitor workflows across services at portfolio, fund and sub fund level.

Access drilldown and filtered information at the click of a button to isolate service type, jurisdiction, in flight actions and completions / filings.



A full-scale tax compliance service

Fund HUB delivers across every level of compliance.

1

Fund Level

- Tax Registration
- FATCA registration & ongoing assistance
- VAT compliance
- Payroll tax compliance
- Investment Undertaking Tax
- Other filings / elections

2

Investor Level

- Investor tax reporting across all key investor tax reporting jurisdictions including UK, Austria, Switzerland, US (PFIC statements, K1's etc.), German tax calculations

3

Investment Level

- WHT efficiency analysis i.e. reviewing portfolio to identify any reclaim opportunities
- Assistance with completion of tax documentation
- WHT reclaims – domestic, treaty and EU claims
- FIN 48 / IFRIC 23 investment level reviews

Contact us

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