

## Notice

### External transactions

## *Investment income and investment income tax*

### I Preliminary remarks

The introduction of investment income compensation tax (*Abgeltungssteuer*) has given rise to many questions regarding reporting requirements for cross-border capital gains and capital gains tax. This notice therefore aims to explain in detail the relevant reporting requirements pursuant to the Foreign Trade and Payments Regulation (*Außenwirtschaftsverordnung*), with special attention to withholding tax.

As a preliminary point, the introduction of withholding tax does not – as a general rule – lead to any amendments to the applicable reporting requirements, as defined in connection with the introduction of the interest withholding tax (*Zinsabschlagssteuer*). Since domestic banks pay compensation tax to the tax authorities for domestic customers<sup>1</sup>, the deduction or forwarding of compensation tax is a transaction between residents and therefore not subject to reporting requirements pursuant to the Foreign Trade and Payments Regulation.<sup>2</sup>

In order to create clarity about existing and still valid reporting regulations, the following section begins by explaining the underlying methodology of the reporting provisions. Aspects relating to the expansion of the assessment base (eg holding gains) are dealt with in section III. Section IV contains case studies of the most important types of investment income for balance of payments statistics and the resulting reporting requirements pursuant to the Foreign Trade and Payments Regulation. As regards the special case, where the definition of residence pursuant to the Foreign Trade and Payments Regulation and tax legislation differs (non-residents pursuant to the Foreign Trade and Payments Regulation = tax residents), simplified reporting regulations are shown.

---

<sup>1</sup> As a general rule, only natural persons must pay capital gains compensation tax.

<sup>2</sup> Furthermore, the deduction of both solidarity surcharge and, where applicable, church tax are transactions between residents and therefore are also not subject to reporting requirements.

## II Underlying methodology

As a general rule, income is to be shown in the balance of payments statistics of the Federal Republic of Germany on a gross basis, ie prior to the deduction of domestic or foreign taxes (gross principle). Any cross-border investment income tax paid or deducted are to be reported in a separate balance of payments item.

For resident investors or creditors, this means that capital gains received from abroad and any investment income tax deducted from it must be reported separately. If foreign investment income tax has already been deducted from dividends or interest payments of non-resident issuers/debtors, the gross amount, ie the amount prior to the deduction of foreign investment income tax, should be shown as an incoming investment income payment. In addition, any taxes deducted abroad must be reported as an outgoing tax payment. By contrast, any domestic investment income tax (compensation tax) deducted or paid subsequently by the resident is deemed a transaction between residents and is therefore not subject to reporting requirements pursuant to the Foreign Trade and Payments Regulation. The amounts printed in ***b o l d*** in the following table (example 1) would be the values used as a basis for incoming (income) and outgoing (tax) payments for reporting purposes pursuant to the Foreign Trade and Payments Regulation.

### Example 1: income from and taxes on investments abroad<sup>3</sup>

Income and tax items	Amount in €	Economic area	Code	Voucher type
Foreign investment income (dividends/interest)	<b>110.000</b>	Abroad	eg 185	3
Foreign investment income tax	(-) <b>30.000</b>		810	2
Dividends/interest received	80.000	Germany		
Domestic investment income tax deducted	(-) 20.000			
Credited to account/safe custody account	60.000			

For resident issuers or debtors, any cross-border capital gains paid are also to be recorded on a gross basis, ie prior to the deduction of taxes, in the balance of payments statistics. Domestic taxes are deducted only in the case of dividend payments or profit distributions, however.<sup>4</sup> In most other cases, generally no taxes are deducted from any other cross-border investment income paid by resident issuers or debtors, thus the amount actually paid – which is also the gross amount to be recorded for statistical purposes – is to be reported. In the case of cross-border dividend and profit payments, however, it is also sufficient to report the actual net amounts paid. The Bundesbank calculates the gross amounts to be recorded in the balance of payments using the relevant withholding tax rates in Germany. However, if the withholding tax deducted – for example according to section 43b of the Income Tax Act

<sup>3</sup> External claims

<sup>4</sup> The interest withholding tax currently applicable and the new compensation tax set to replace it are generally only to be deducted by the paying resident credit institution in the case of resident investors or creditors.

(*Einkommensteuergesetz* or EStG) – differs from the regular rate of 25%, we also ask for the information on the reduced tax rate when reporting pursuant to the Foreign Trade and Payments Regulation.

**III Expansion of the tax assessment base**

The introduction of compensation tax has considerably expanded the assessment base for the taxation of investment income. Unlike under tax law, however, holding gains from price and valuation changes are not considered income for the purposes of the balance of payments and, as such, are not subject to reporting requirements. Instead, the relevant financial account items are particularly affected in the balance of payments, whereas portfolio investments are likely to be most affected. In line with the regulations for investment income and investment income tax, however, the introduction of compensation tax does not essentially change the existing reporting regulations in this regard either. The explanations of the underlying reporting methodology in the previous section are, instead, also intended to be applied to investment reporting. In the case of foreign securities sold to non-residents, as in example 2, this means that the deduction of withholding tax must not be taken into account in reporting. The amounts printed in ***bold*** in the following table (example 2) would be the values used as a basis for reporting securities pursuant to the Foreign Trade and Payments Regulation. This aims to ensure that cross-border purchases and sales continue to be posted in full.

**Example 2:** purchase and sale of securities as part of principal broking services

Income and tax items	Amount in €	Code	Voucher type	Month
Purchase of foreign shares	<b>100.000</b>	104	4	January
Sale of foreign shares	<b>120.000</b>	104	3	November
<i>of which</i> holding gains	20.000			November
Domestic tax deducted	(-) 5.000			
Credited to account/custody safe deposit	115.000			

According to the example, the amount to be reported is the gross amount of sales proceeds prior to the deduction of (domestic) tax of €120,000 and not the actual credited amount of €115,000.

**IV Various case studies**

The following list shows the reporting requirements for various types of investment income for banks or their (safe custody) customers according to sections 59 and 69 of the Foreign Trade and Payments Regulation. The case studies are based on the normal scenario in which a resident pursuant to the Foreign Trade and Payments Regulation is also considered a resident for tax purposes, and a non-resident pursuant to the Foreign Trade and Payments Regulation is also considered a non-resident for tax purposes. If both concepts cease to apply, it is possible

to relax reporting requirements according to section 64 of the Foreign Trade and Payments Regulation.<sup>5</sup>

The following case study distinguishes between

- external claims: claims of which the debtor is a non-resident, and
- domestic claims: claims of which the debtor is a resident.

## 1 Investment income on external claims

### 1.1 Interest payments on foreign securities

1.1.1 Bank customer receives interest on foreign securities.

- Bank deducts compensation tax for the domestic customer.<sup>6</sup>

Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation

None

Resident customer's reporting requirement pursuant to the Foreign Trade and Payments Regulation<sup>7</sup>

Investment income must be reported (Z4: incoming payment in the amount of the gross quantity, ie before the deduction of foreign and domestic withholding tax), as must withholding tax deducted abroad (Z4: outgoing payment).

1.1.2 Bank receives interest on its own portfolio shares.

- Bank does not deduct compensation tax.

Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation<sup>8</sup>

Investment income must be reported (Z4: incoming payment in the amount of the gross quantity, ie before the deduction of foreign withholding tax), as must withholding tax deducted abroad (Z4: outgoing payment).

### 1.2 Interest payments on loan claims on non-residents

1.2.1 Bank customer receives interest from non-resident debtors.

- Bank does not deduct withholding tax.

Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation

None

---

<sup>5</sup> See section IV.3 below.

<sup>6</sup> Only natural persons must pay withholding tax.

<sup>7</sup> Reporting requirements exist irrespective of the safe custody location, ie domestic or foreign safe custody.

<sup>8</sup> Reporting requirements exist irrespective of the safe custody location, ie domestic or foreign safe custody.

### Customer's reporting requirement pursuant to the Foreign Trade and Payments Regulation

Investment income must be reported (Z4: incoming payment in the amount of the gross quantity, ie before the deduction of foreign withholding tax), as must withholding tax deducted abroad (Z4: outgoing payment).

#### 1.2.2 Bank receives interest from non-resident debtors.

- Bank does not deduct withholding tax.

### Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation

Investment income must be reported (Z14: incoming payment in the amount of the gross quantity, ie before the deduction of foreign withholding tax), as must withholding tax deducted abroad (Z4: outgoing payment).

## 1.3 Dividends from foreign shares

#### 1.3.1 Bank customer receives dividends from foreign shares

- Bank deducts withholding tax for the domestic customer.<sup>9</sup>

### Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation

None

### Domestic customer's reporting requirement pursuant to the Foreign Trade and Payments Regulation<sup>10</sup>

Investment income must be reported (Z4: incoming payment in the amount of the gross quantity, ie before the deduction of foreign and domestic withholding tax), as must withholding tax deducted abroad (Z4: outgoing payment).

#### 1.3.2 Bank receives dividends from its own foreign shares

- Bank does not deduct withholding tax.

### Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation<sup>11</sup>

Investment income must be reported (Z4: incoming payment in the amount of the gross quantity, ie before the deduction of foreign withholding tax), as must withholding tax deducted abroad (Z4: outgoing payment).

## 2 Investment income on domestic claims

### 2.1 Interest payments on domestic securities

#### 2.1.1 Bank makes cross-border interest payment on domestic securities (on behalf of its customers (issuers) or for own issues).

- Bank does not deduct withholding tax.

### Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation

---

<sup>9</sup> Only natural persons must pay withholding tax.

<sup>10</sup> Reporting requirements exist irrespective of the safe custody location, ie domestic or foreign safe custody.

<sup>11</sup> Reporting requirements exist irrespective of the safe custody location, ie domestic or foreign safe custody.

Investment income paid must be reported  
(Z11: outgoing payment, gross amount, ie actual amount paid).

Customer's (issuer's) reporting requirement pursuant to the Foreign Trade and Payments Regulation

None

2.1.2 Bank receives cross-border interest payments on domestic securities<sup>12</sup> (for its customers (investors) or for its own securities).

- Bank deducts withholding tax for its domestic customers.<sup>13</sup>

Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation

Investment income received must be reported if the bank is the first instance to receive the payment from a non-resident.

(Z11: incoming payment, gross amount, ie before the deduction of domestic withholding tax)

Customer's (investor's) reporting requirement pursuant to the Foreign Trade and Payments Regulation

None

## **2.2 Interest payments on liabilities vis-à-vis non-residents**

2.2.1 Bank makes interest payments on liabilities vis-à-vis non-resident customers (eg deposits).

- Bank does not deduct withholding tax.

Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation

Investment income paid must be reported  
(Z15: outgoing payment, gross amount, ie actual amount paid).

2.2.2 Domestic customer pays interest on credit liabilities vis-à-vis non-resident creditors.

- Bank does not deduct withholding tax.

Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation

None

Customer's reporting requirement pursuant to the Foreign Trade and Payments Regulation

Investment income paid must be reported  
(Z1/Z4: outgoing payment, gross amount, ie actual amount paid).

## **2.3 Dividends from domestic shares**

2.3.1 Bank distributes cross-border dividends on domestic shares (on behalf of its customers (issuers) or on own shares)

- Issuer or bank deducts withholding tax on domestic dividends.

Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation

---

<sup>12</sup> From a foreign paying agent or custodian.

<sup>13</sup> Only natural persons must pay withholding tax.

Investment income paid must be reported  
(Z11: outgoing payment, net amount, ie actual amount paid).

Customer's (issuer's) reporting requirement pursuant to the Foreign Trade and Payments Regulation

None

2.3.2 Bank receives cross-border dividends on domestic shares<sup>14</sup>  
(for its customers (investors) or own financial assets).

- Bank does not deduct withholding tax.

Bank's reporting requirement pursuant to the Foreign Trade and Payments Regulation

Investment income received must be reported if the bank is the first instance to receive the payment from a non-resident.

(Z11: incoming payment, net amount, ie amount actually paid)

Customer's (investor's) reporting requirement pursuant to the Foreign Trade and Payments Regulation

None

### **3 Exception: non-residents pursuant to the Foreign Trade and Payments Regulation who are tax residents**

In exceptional cases, non-residents (pursuant to the Foreign Trade and Payments Regulation) can be considered tax residents. They receive investment income<sup>15</sup> from claims against residents only after the deduction of domestic investment income tax (compensation tax). In terms of foreign trade and payments law, the gross amount of the income distributed and the tax deducted would have to be reported separately in these cases. Since the expected reporting volume for these tax payments is estimated to be low overall, it is permitted to report the net amount actually credited for capital gains to non-residents who are tax residents in order to simplify reporting (section 64 of the Foreign Trade and Payments Regulation).

#### **Contact**

Further information may be obtained from the Service Centre 'Außenwirtschaftsstatistik', 55148 Mainz, Germany, as well as from the Deutsche Bundesbank, Balance of Payments Statistics, International Investment Position, Postfach 30 09, 55020 Mainz, Germany.

**Information:** ☎ 0800 - 1234 111 (freephone when calling from within Germany)

**Internet:** [www.bundesbank.de](http://www.bundesbank.de)

**Newsletter** (in German): registration on the website under "Meldewesen →

Newsletter " (category: Außenwirtschaft)

---

<sup>14</sup> From a foreign paying agent or custodian.

<sup>15</sup> Investment income within the meaning of the balance of payments, ie excluding price or valuation gains or losses.