ARTICLE

Reclaiming Foreign Dividend Taxes

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Governments eager to increase revenue are becoming more aggressive in collecting foreign dividend taxes. As they demand a stricter burden of proof for making reclaims, billions in client assets are being withheld on undue global taxes.

Many U.S. investors and funds have assets with foreign companies, including popular names like Nestlé (Switzerland), SAP (Germany) and Canon (Japan). These equities fall under local jurisdiction, and countries in search of more tax revenue are becoming more aggressive in collecting revenue on fund dividends. These taxes, as high as 35% in some countries, are automatically deducted before payout. Cumulatively, the foreign tax withholdings on dividends number in the billions each year.

However, the U.S. has bilateral tax treaties in place with countries that could keep clients from overpaying. The agreements set thresholds for direct and indirect shareholders residing in the U.S. that, when met, increase the amount of dividend taxes that can be reclaimed from foreign tax authorities. These allow clients to avoid the higher tax rate and recoup more of their assets.

Standards for proving a successful reclaim, though, are stricter than ever. Using Broadridge's Global Tax Reporting Solution, asset managers can compile irrefutable proof that is accepted by foreign tax authorities.

BILATERAL TAX TREATY COUNTRIES

Australia	Finland	Ireland	Spain
Belgium	France	Japan	Sweden
Canada	Germany	South Korea	Switzerland

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HOW CLIENTS ARE LOSING OUT ON BILLIONS

In omnibus accounts used by recordkeepers and retirement plans, it is cheaper and more convenient for registered investment companies to roll the assets together and perform summary trades rather than work at the individual account level. However, summary trades fail to disclose residency. This means asset managers cannot prove that the percentage of underlying U.S. shareholders surpasses the threshold for reclaiming the global tax. It is important to note that it is the investor's country of residence, regardless of citizenship, that determines whether they are a U.S. shareholder.

Avoiding a 35% dividend tax in Switzerland, for example, requires that more than 95% of shareholders reside in the U.S. In the past, these funds' prospectuses or extrapolated samples of individual investor data sufficed as proof that the fund ownership surpassed the threshold for successfully reclaiming a global dividend tax. Now, more due diligence is needed to prove a reclaim.

COUNTRIES WITH THE HIGHEST FOREIGN TAX RATES AND THEIR STATUTES OF LIMITATIONS

Country	Dividend Tax Rate	Statute of Limitations
Switzerland	35%	3 years EOY
Australia	30%	7 years P/D
Finland	30%	5 years EOY
France	30%	2 years EOY
New Zealand	30%	4 years*
Sweden	30%	5 years EOY

* 8 years EOY for income paid through 3/31/2013

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TIMING IS EVERYTHING

Even with the data to verify the percentage of underlying U.S. shareholders, firms could forfeit their reclaims if they are slow to act. The statute of limitations for initial reclaim will vary by region, but generally is around two to five years. While that might seem like ample time, the processes for preparing and filing a reclaim can be time-consuming, especially when dealing with reclaims spanning multiple countries, years and investment vehicles.

In cases where an initial claim is rejected, registered investment companies have another set timeframe before correction opportunities are exhausted. With governments putting more of the onus on firms to prove their cases, those windows of opportunity can slam shut faster than you might think.

Settling dividend reclaims as quickly as possible is also crucial for client relations. Clients that move out of a fund while a reclaim is being processed might miss out on the dividend reclaim entirely. Further, proactively recouping money owed can help build trust between individual investors and asset managers, supporting long-term retention and increased asset allocation.

SUCCESSFUL RECLAIMS ARE NOT THE END OF THE LINE

As part of a reclaim, your organization will either have to work with the IRS or take foreign tax credits.

If you elect the IRS closing agreement method, the IRS imposes an 85% tax on the reclaim amount.[1] Exceptions regarding tax-exempt accounts and retirement accounts (IRAs, 401(k)s, and defined contribution plans) also require proving your position with definitive data.

Choosing to take foreign tax credits can sometimes be more beneficial to shareholders. The decision on whether to pursue an IRS closing agreement or a foreign tax credit would depend on the net return of the reclaim.

PURSUITS REQUIRE CROSS-FUNCTIONAL TEAMS

The growing complexity around reclaims with foreign tax authorities requires a team of experts for each phase. Keep in mind that there will be instances where, even if your clients are entitled to a reclaim, the costs of pursuing it will not be worth the effort when you weigh the labor costs, fees, foreign exchange rates, etc.

Global Tax Reclaim Report

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Bruckner Funds

Country	CUSIP	Fund Name	Shareholder Accounts	Shares	Assets
Portfolio Name: Bruckner Emerging Markets Fund				**Position Date: 12/31/2021**	
FRANCE	BR999F880	Bruckner World Equity Fund Ordinary Class	22	7,246	$136,736
JAPAN	BR999F880	Bruckner World Equity Fund Ordinary Class	11	1,397	$26,361
SINGAPORE	BR999F880	Bruckner World Equity Fund Ordinary Class	11	2,657	$50,132
SWITZERLAND	BR999F880	Bruckner World Equity Fund Ordinary Class	11	3,261	$61,536
UNITED STATES	BR999F872	Bruckner World Equity Fund Institutional Class	2,486	1,015,886	$19,423,733
UNITED STATES	BR999F880	Bruckner World Equity Fund Ordinary Class	10,241	5,122,696	$96,665,266
	Summary for Bruckner Emerging Markets Fund		12,782	6,153,142	$116,363,764

Sample of a quarterly Global Tax Report for a fund.

When management decides to pursue a reclaim opportunity within a jurisdiction, a designated subject matter expert will typically lead the filing process with support from a custodian that can help with documentation. Later, legal and compliance experts might be needed to provide expertise around a particular jurisdiction. It is prudent to have a governance structure in place for pursuing a claim, as any delay could threaten the window of opportunity.

VERIFIABLE DATA SITS AT THE HEART OF RECLAIM SUCCESS

Data from a trusted authority will be the essential component for pursuing global tax reclaims. Broadridge Global Tax Reporting provides the substantiating details regarding shareholder residency that are accepted by foreign tax authorities. The innovative analytical tools use unprecedented transparency into shareholder data in annual reports that will confirm your tax reclaims. Use it to streamline tax processes and maximize clients' gains.

Learn more about Broadridge Global Tax Reporting. Call +1 866 359 0456 or email Fred Kosanovic at fred.kosanovic@broadridge.com

Broadridge's Global Tax Reporting Solution can compile irrefutable proof that is accepted by foreign tax authorities.

ABOUT THE AUTHOR

Creating solutions that help clients reduce risk and increase operational efficiencies, David Paletta has been with Broadridge since 2007. His professional experience of 38 years has focused on operations and business process re-engineering. He has managed large client service and technology departments and has taken on large enterprise projects focused on operations and risk mitigation.

FOOTNOTES

[1] Per IRS Notice 2016-10.