

Implementation of the UCITS IV Directive

Effective

1 January 2012

far-reaching changes to the tax deduction process for German securities take effect.

These are a result of the approval of the Upper House of the German Parliament (Bundesrat) on 27 May 2011 of the directive on implementing the guideline 2009/65/EC on coordinating legal and administrative regulations concerning specific organisations for joint investments in securities (UCITS IV Undertakings for Collective Investment in Transferable Securities Directive).

Fraudulent tax reporting of short selling past the dividend record date are to be prevented with implementation of the UCITS IV Directive. This is achieved by the changeover of the tax deduction from the issuer to the last domestic paying agent.

In this sense, Clearstream Banking Frankfurt (CBF) shall deduct taxes in cases of dividend and fund distributions for its foreign customers as the last domestic paying agent as well as provide tax liability for capital growth funds. This concerns both income distributions on the basis of holdings as well as compensation for transactions that were traded "cum" and delivered ex.

CBF Processing

The effects of the UCITS IV Directive on the CBF processing are explained below according to the current level of knowledge; we reserve the right to make changes.

Relevant Instruments

Income from instruments falling under UCITS IV, which are subject to the German withholding tax, are taxed by the last domestic paying agent (CBF) once the UCITS IV Directive will become effective.

These instruments are identified by CBF via the data vendor (Wertpapiermitteilungen; WM) master data "Different tax country = Germany" or, if not populated, "Issuer country = Germany".

Relevant dates

The following CBF event types are within the scope of the UCITS IV Directive that are processed for distributions of instruments shown under [Relevant Instruments](#).

Event type	Description
120	Dividend distribution
121	Fund distribution
127 (new)	Tax liability for capital growth fund

This distinction is made based on the WM classification of the deduction duty for the withholding tax.

Processing dividend distributions

Processing dividend payments is differentiated according to distribution on holdings and market claims.

Holdings' distribution

In the course of holdings' distribution, the paying agent of the issuer is debited by CBF with the gross dividend. The distribution to the customer depends on the respective foreign trade directive reporting status (Außenwirtschaftsverordnungs-Meldestatus; AWV status) (domestic/foreign).

Customer	Holdings' distribution
Domestic	Gross dividend
Foreign	Net dividend

CBF deducts the taxes (withholding tax/solidarity surcharge) and forwards them to the appropriate offices.

Market claim processing

In the frame of market claim processing, the seller is always debited with the gross dividend. The distribution to the buyer depends on the respective AWV status (domestic/foreign).

Seller	Buyer	Debit	Credit note
Domestic	Domestic	Gross	Gross
Domestic	Foreign	Gross	Net
Foreign	Domestic	Gross	Gross
Foreign	Foreign	Gross	Net

CBF deducts the taxes (withholding tax/solidarity surcharge) and forwards them to the appropriate offices.

The logic of market claim processing (for example, identifying eligible transactions) remains unchanged.

Processing fund distributions

Processing fund distributions differs according to distribution on holdings and market claims.

Holdings' distribution

In the course of holdings' distribution, the paying agent of the issuer is debited by CBF with the gross distribution. The distribution to the customer depends on the respective AWV status (domestic/foreign).

Customer	Holdings' distribution
Domestic	Gross distribution
Foreign	Net distribution

CBF deducts the taxes (withholding tax/solidarity surcharge) and forwards them to the appropriate offices.

The net distribution reflects the gross distribution minus the withholding tax and solidarity surcharge for the domestic dividend, real estate and REIT income.

Market claim processing

In the frame of market claim processing, the gross distribution is always debited from the seller. The distribution to the buyer depends on the respective AWV status (domestic/foreign).

Seller	Buyer	Debit	Credit note
Domestic	Domestic	Gross	Gross
Domestic	Foreign	Gross	Net
Foreign	Domestic	Gross	Gross
Foreign	Foreign	Gross	Net

CBF deducts the taxes (withholding tax; KESolidarity surcharge; SolZ) and forwards them to the appropriate offices.

The logic of market claim processing (for example, identifying eligible transactions) remains unchanged.

Tax liability for capital growth funds

In line with previous legislation, the capital investment trust forwards the tax liability for capital growth funds to the tax office. This obligation is being transferred to CBF in the wake of the UCITS IV Directive.

Tax liability on holdings

In the frame of providing tax liability, the depository of the investment company is debited by CBF with the tax liability reported in a new income field by WM (WM will supply the field name in a separate announcement). The tax liability is provided on the 10th business day after the payment day and depends on the respective AWV status (domestic/foreign).

The amount of the tax liability depends on the taxation basis (business capital (Betriebsvermögen) or personal assets (Privatvermögen)). The following taxation options arise:

Tax liability on business capital

- Withholding tax on domestic dividend, REIT, real estate and interest income
- Solidarity surcharge on domestic dividend, REIT, real estate and interest income

Tax liability on personal assets

- Withholding tax and solidarity surcharge are assessed on the lines of business capital taking church tax (Kirchensteuer; KiSt) into consideration, crediting any tax withheld at source abroad (anrechenbare ausländischen Quellensteuer).

The depository of the investment company provides the respectively higher liquidity amount.

Those that are considered as domestic residents by the AWV are credited the complete tax liability. Those that are considered foreign residents by the AWV receive the tax liability reduced by the withholding tax and solidarity surcharge. When assessing liquidity this can result in a reduced tax liability in the amount of EUR 0.00 based on business capital. The same is relevant for market claims processing.

Customer	Holdings' distribution
Domestic	Complete tax liability
Foreign	Reduced tax liability

CBF deducts the taxes (withholding tax/solidarity surcharge) and forwards them to the appropriate offices.

Market claim processing

In the frame of market claim processing, the gross tax liability is always debited from the seller. The distribution to the buyer depends on the respective AWV status (domestic/foreign).

Seller	Buyer	Debit	Credit note
Domestic	Domestic	Complete tax liability	Complete tax liability
Domestic	Foreign	Complete tax liability	Reduced tax liability
Foreign	Domestic	Complete tax liability	Complete tax liability
Foreign	Foreign	Complete tax liability	Reduced tax liability

CBF deducts the taxes (withholding tax/solidarity surcharge) and forwards them to the appropriate offices.

The logic of market claim processing (for example, identifying eligible transactions) is along the lines of that of dividend and fund distributions.

Tax adjustment

To prevent tax fraud with short selling and given that short selling in omnibus accounts held with custodians and CBF cannot always be recognised without a doubt, all sales/deliveries are debited gross. The buyer/recipient receives the compensation payment as gross (domestic) or net (foreign) according to its AWV status.

As a result of this processing, a foreign resident receives a net credit from CBF on his holdings, while he is debited gross by CBF in a compensation due to the later sale of his holdings.

A settlement bank does not normally have any information about the trade and cannot react directly on the trade date alike an executing bank credit and debit. It usually gets to know about the trade on settlement day and has already issued the net dividend credit note.

For this reason, a tax adjustment process has been created that results in a tax credit note for the foreign resident if there is no negative balance for this holder.

With the introduction of a daily tax adjustment, the holdings are adjusted by the compensation from purchases and sales to calculate the actual tax owed and to reimburse any excess tax paid.

This tax adjustment is performed starting on the entitlement day of the distribution daily during the complete duration of the compensation term (25 business days).

Example tax adjustment

tax relevant transaction	Kind of transaction	Day	Nominal	Dividend per Share	Gross Dividend	Net Dividend	KESt Account	SolZ Account	EoD Position	Tax relevant EoD Position	KESt balance EoD	SolZ balance EoD	Target KESt EoD	Target SolZ EoD	Tax Credit KESt	Tax Credit SolZ
Yes	Position	Entitlement day	100.00	1.00	100.00	73.63	25.00	1.37	100.00	100.00	25.00	1.37	25.00	1.37	0.00	0.00
Yes	Sell	Ex-Date	-100	1.00	-100.00	0.00	0.00	0.00								
Yes	Sell	Ex-Date	-200	1.00	-200.00	0.00	0.00	0.00								
Yes	Sell	Ex-Date	-300	1.00	-300.00	0.00	0.00	0.00								
Yes	Buy	Ex-Date	500	1.00	500.00	368.13	125.00	6.87								
Yes	Buy	Ex-Date	400	1.00	400.00	294.50	100.00	5.50								
Yes	Buy	Ex-Date	200	1.00	200.00	147.25	50.00	2.75	600.00	600.00	300.00	16.49	150.00	8.25	150.00	8.24
Yes	Sell	Ex + 1	-200	1.00	-200.00	0.00	0.00	0.00								
Yes	Sell	Ex + 1	-500	1.00	-500.00	0.00	0.00	0.00								
Yes	Buy	Ex + 1	100	1.00	100.00	73.63	25.00	1.37	0.00	0.00	175.00	9.62	0.00	0.00	175.00	9.62
Yes	Sell	Ex + 2	-90	1.00	-90.00	0.00	0.00	0.00								
Yes	Buy	Ex + 2	40	1.00	40.00	29.45	10.00	0.55								
No	Buy	Ex + 2	50	n.a.	n.a.	n.a.	n.a.	n.a.	0.00	-50.00	10.00	0.55	0.00	0.00	10.00	0.55

Withholding Tax = KESt
Solidarity Surcharge = SolZ

Detailed information

As soon as important details have been agreed upon with the authorities responsible (Federal Finance Ministry (BMF) and Federal Central Tax Office (BZSt)), CBF will publish a functional concept on the topic of the UCITS IV Directive, in which additional information about CBF settlement will be announced, especially details about reporting the new processes (MT566 and other media) as well as the WM-field names used. This also applies to the tax certification and tax reclaim services.

Further information

In addition, you can contact your Relationship Manager, Customer Service Domestic or the Tax Help Desk Frankfurt:

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