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# FISCAL GUIDE FOR GERMAN MARKET

February 2015

# 1. CONTENTS

Below you find the types of securities involved and the procedure/s in place.

<b>Securities</b>	<b>Relief at source</b>	<b>Quick Refund</b>	<b>Standard refund</b>
Bonds	Not available	Not available	Available
Equities / Funds	Not available	Not available	Available

**Bonds**

Securities	Procedure	Eligible Subject	Required documents	Deadline	Appendix
<b>Bonds</b>	Standard Refund	<ul style="list-style-type: none"> <li>Residents in DTA country</li> </ul>	<ul style="list-style-type: none"> <li>Letter of request (DE – MT552)</li> </ul>	3 months before the Tax Authorities' deadline which is 4 years after the end of the year in which the interest was paid	1
			<ul style="list-style-type: none"> <li>Claim for refund form (generic, as dedicated country forms are available on the German Tax Authority website)</li> </ul>		2
			<ul style="list-style-type: none"> <li>Power of attorney (if necessary)</li> </ul>		–
			<ul style="list-style-type: none"> <li>Credit advice</li> </ul>		3

**Equities**

Securities	Procedure	Eligible Subject	Required documents	Deadline	Appendix
<b>Equities</b>	Standard Refund	<ul style="list-style-type: none"> <li>Residents in DTA country</li> </ul>	<ul style="list-style-type: none"> <li>Letter of request (DE – MT552)</li> </ul>	3 months before the Tax Authorities' deadline which is 4 years after the end of the year in which the interest was paid	1
			<ul style="list-style-type: none"> <li>Claim for refund form (generic, as dedicated country forms are available on the German Tax Authority website)</li> </ul>		2
			<ul style="list-style-type: none"> <li>Power of attorney (if necessary)</li> </ul>		–
			<ul style="list-style-type: none"> <li>Credit advice</li> </ul>		3
			<ul style="list-style-type: none"> <li>German Questionnaire (only if the BO is an investment fund)</li> </ul>		4

## 2. Standard Refund procedure for bonds

### 2.1 Eligibility criteria

Standard Refund is applicable to clients holding German bonds on behalf of final BOs who are a resident in a country with a DTA in place with Germany (see the relevant appendix).

Residents of Germany cannot reclaim withholding tax.

Interest on most debt securities held in Clearstream Banking is not subject to German withholding tax and is systematically paid gross with no action required of the customer or beneficial owner to obtain exemption.

There is an effective withholding tax rate of 26.375% on interest from the following corporate debt securities, depending on their character in each case:

- Convertible bonds (Wandelschuldverschreibungen);
- Jouissance shares: profit participating rights that do not entitle the owner to liquidation proceeds (Genußscheine ohne Anteil an Liquidationserlös);
- Bonds conveying an interest in profits of the issuer (Gewinnobligationen).

This effective rate comprises a standard rate of 25% plus a solidarity surcharge (Solidaritätszuschlag) of 5.5% of the standard rate.

The distinction between taxable and non taxable bonds is below reported:

#### Debt securities not subject to withholding tax:

- Government debt securities (including coupon strips and principal strips of strippable government bonds);
- Agency bonds;
- Foreign bonds;
- Communal bonds;
- Convertible bonds (Wandelschuldverschreibungen);
- Jouissance shares: profit participating rights that do not entitle the owner to liquidation proceeds (Genußscheine ohne Anteil an Liquidationserlös);
- Bonds conveying an interest in profits of the issuer (Gewinnobligationen).

Debt securities subject to an effective rate of withholding tax of 26.375%, depending in each case:

- Convertible bonds (Wandelschuldverschreibungen);
- Jouissance shares: profit participating rights that do not entitle the owner to liquidation proceeds (Genußscheine ohne Anteil an Liquidationserlös);
- Bonds conveying an interest in profits of the issuer (Gewinnobligationen).

## 2.2 Documentation requirements

Beneficial owners can reclaim withholding tax on interest from German debt securities using the standard refund procedure as follows:

Eligible beneficial owners	Effective rate of tax after refund <sup>a</sup>	Tax refund available <sup>a</sup>
Residents of Double Taxation Treaty (DTT) countries	Tax treaty rate or 26.375%, whichever is lower	26.375% minus tax treaty rate <sup>b</sup>

a. Expressed as a percentage of the gross interest amount.

b. Amount of relief will be 0% if the DTT rate exceeds 26.375%.

### **Important note:**

From 2012, a tax voucher is required for a tax reclaim with the Federal Central Tax Office (BZSt). Monte Titoli will provide to ask for it, as Clearstream Banking customer.

In order to apply for standard refund of withholding tax, the following documents must be submitted to Clearstream Banking by the prescribed deadlines:

To apply for a Standard Refund, the client must send us the following documents:

- **Claim for Refund of German Withholding Taxes** on Dividends and/or Interest;
- **Power of Attorney**;

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- **Credit Advice** (for convertible bonds, certificates and profit participating certificates up to 31 December 2012 and for dividend and fund distributions (including those for growth funds or accumulation funds) up to 31 December 2011);
- **Letter of Request** for Reclaim of German Withholding Tax;
- **IRS form 6166** (only for US residents)

**Claim for refund form**

For countries where no specific prescribed form is available, the German Tax Authorities (GTA) provide a generic withholding tax refund form in English, French and German.

Specific prescribed forms are available, from the website of the GTA's Tax Information Centre

[http://www.steuerliches-info-center.de/EN/SteuerrechtFuerInvestoren/steuerrechtFuerInvestoren\\_node.html](http://www.steuerliches-info-center.de/EN/SteuerrechtFuerInvestoren/steuerrechtFuerInvestoren_node.html)

for the following countries:

- Residents of Switzerland - R-D1 (individual persons) or R-D2 (legal persons or partnerships);
- Residents of the U.S.A. - E-USA;
- Residents of the UK/NIRL – form UK/NIRL
- All except residents in UK or US – form E-English
- U.S. pension funds - Pensiofonds (additional declaration).

Two copies (or three, depending on the country of residence) must be completed. One copy is retained by the beneficial owner and the remaining copies must be filed with the beneficial owner's tax authority for certification. The tax authority retains one (or two) copies and returns the remaining copy to the beneficial owner, which must be forwarded to Clearstream Banking by MT.

**Important note:**

So that the GTA can remit the refundable amounts to Clearstream Banking as our custodian, the following data must be entered under point IV of the form:

- Recipient's name/first name // Name/Vorname des Überweisungsempfängers: Clearstream Banking AG, Frankfurt
- Place of residence // Postleitzahl -Sitz, Wohnsitz: 65760 Eschborn, Germany
- Address // Strasse, Hausnummer: Mergenthalerallee 61
- Bank (Name and Address, EU: BIC, IBAN) // Bank (Name und Anschrift, EU: BIC, IBAN): DE44500700100938225000

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- Account no. / Kontonummer: 9382250
- Bank code no./ BIC-Code // Bankleitzahl/ BIC-Code: DEUTDEFF

The GTA provide, on their website, detailed instructions for completion of the forms.

#### Power of Attorney

If the customer or a third party is completing the form on behalf of the beneficial owner, a Power of Attorney must be provided.

#### Credit advice

It is used to identify interest payment details including the security type, gross amount of payment, date of payment and amount of tax withheld. The credit advice must reconcile with the information in the Claim for Refund of German Withholding Taxes on Dividends and/or Interest.

#### Letter of request

It is the form to request MT to process the application of refund.

#### IRS form 6166 (only for US residents)

For residents of the U.S.A. an IRS Form 6166 must be included with the reclaim request, as proof that the applicant has filed a US income tax return to the IRS.

### 3.3 Deadline for receipt of documentation

To be effective, our team must receive your documentation **as soon as possible after the payment date, and no later than 3 months before the tax authorities' deadline**, which is 4 years after the end of the year in which the interest was paid.

## 3. Standard Refund procedure for equities

### 3.1 Eligibility criteria

A standard refund is available if the beneficial owner qualifies for the benefit of a reduced rate of withholding tax in accordance with a Double Taxation Treaty (DTT) between its country of residence and Germany.

Residents of Germany cannot reclaim withholding tax.

For a list of DTA countries, consult the DTA table - Debt securities.

### 3.2 Documentation requirements

Beneficial owners can reclaim withholding tax on dividends from German equities using the standard refund procedure as follows:

Eligible beneficial owners	Effective rate of tax after refund <sup>a</sup>	Tax refund available <sup>a</sup>
Residents of Double Taxation Treaty (DTT) countries	Tax treaty rate or 26.375%, whichever is lower	26.375% minus tax treaty rate <sup>b</sup>

a. Expressed as a percentage of the gross dividend amount.

b. Amount of relief will be 0% if the DTT rate exceeds 26.375%.



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To apply for a standard refund the following documentation is required:

- **Claim for Refund of German Withholding Taxes** on Dividends and/or Interest;
- **German Questionnaire** (only when the BO is an investment fund)
- **Power of Attorney**;
- **Credit Advice** (for convertible bonds, certificates and profit participating certificates up to 31 December 2012 and for dividend and fund distributions (including those for growth funds or accumulation funds) up to 31 December 2011);
- **Letter of Request** for Reclaim of German Withholding Tax;
- **IRS form 6166** (only for US residents)

**Claim for refund form**

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for the following countries:

- Residents of Switzerland - R-D1 (individual persons) or R-D2 (legal persons or partnerships);
- Residents of the U.S.A. - E-USA;
- Residents of the UK/NIRL – form UK/NIRL
- All except residents in UK or US – form E-English
- U.S. pension funds - Pensiofonds (additional declaration).

Two copies (or three, depending on the country of residence) must be completed. One copy is retained by the beneficial owner and the remaining copies must be filed with the beneficial owner's tax authority for certification. The tax authority retains one (or two) copies and returns the remaining copy to the beneficial owner, which must be forwarded to Clearstream Banking by MT.

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- Place of residence // Postleitzahl -Sitz, Wohnsitz: 65760 Eschborn, Germany
- Address // Strasse, Hausnummer: Mergenthalerallee 61
- Bank (Name and Address, EU: BIC, IBAN) // Bank (Name und Anschrift, EU: BIC, IBAN):  
DE44500700100938225000
- Account no. / Kontonummer: 9382250
- Bank code no./ BIC-Code // Bankleitzahl/ BIC-Code: DEUTDEFF

The GTA provide, on their website, detailed instructions for completion of the forms.

New German Questionnaire / Version 2011 Fragebogen Fonds

This Questionnaire is an additional tax reclaim requirement to prevent unjustified reclaims of withholding tax on dividends from shares acquired over the dividend ex-date.

The German Tax Authorities expect to receive the German version of the questionnaire. The English translation is provided for information purposes only.

Power of Attorney

If the customer or a third party is completing the form on behalf of the beneficial owner, a Power of Attorney must be provided.

Credit advice

It is used to identify interest payment details including the security type, gross amount of payment, date of payment and amount of tax withheld. The credit advice must reconcile with the information in the Claim for Refund of German Withholding Taxes on Dividends and/or Interest.

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