



**ACCOUNTANCY
EUROPE.**

THE FASTER DIRECTIVE: A CROSS- BORDER WITHHOLDING TAX RELIEF SYSTEM

Simplifying and accelerating WHT repayments

FACTS.

**TAX
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HIGHLIGHTS

The European Union has recently passed the FASTER Directive that aims to simplify and speed up the repayment of excess withholding tax (WHT) levied by some Member States on dividends paid to non-resident equity holders.

This legislation allows for the deduction of WHT at source and / or the faster repayment of withheld tax. It is predicated on key financial institutions' increased involvement and introduces the Certified Financial Intermediary. The new law also requires Member States to establish systems to issue digital tax residence certificates, which will facilitate WHT repayments and could streamline other future cross-border tax issues.

The legislation is complex as it takes into account national specificities. This publication provides a flowchart of obligations and options affecting Member States.

Although the FASTER Directive has been approved by the European Council, it may be subject to a non-binding opinion from the European Parliament which can delay its adoption process.

INTRODUCTION

The European Commission's (EC) [FASTER](#) initiative aims to ensure Member States with large capital markets introduce harmonised 'relief at source' procedures and/or faster repayment systems for 'excess withholding tax' (WHT).

Currently, Member States often withhold more tax on payments of dividends and interest to non-resident taxpayers than they do for their own residents, even when they are resident in other EU Member States. This higher amount withheld is referred to as excess WHT.

This practice, and inefficiencies in refunding excess WHT, is estimated to cost the European Union's (EU) economy around €6 billion annually¹. This is considered a significant obstacle in achieving capital market union as it discourages individuals and investment funds from investing in equities and bonds in other Member States.

Accountancy Europe welcomes the FASTER initiative as we have long [called](#) for legislative action on this matter.

OBJECTIVE

Professional accountants should be aware of the legislative changes that could affect the financial system in their Member State. This factsheet will concentrate on these aspects to support the profession in this task – covering such areas as the types of transactions impacted, who will be affected and the basics of the provisions. Many of the detailed requirements in FASTER are directed at Member States and large financial intermediaries and these will not be considered in detail in this document.

The relief is granted through mechanisms that depend on each Member State's relevant authorities. The mechanisms could therefore vary considerably between Member States. Practitioners will have to carefully consult each Member State's implementation in detail if they wish to use that country's relief system on behalf of their clients. This document aims to provide an overview of the mechanisms that the Member States could introduce, their basic requirements and the timescale.

TIMELINE

Member States are required to transpose the Directive into national law by 31 December 2028. The provisions of this Directive will then come into force from 1 January 2030.

IMPACT FOR THE ACCOUNTANCY PROFESSION

The exact impact will depend on whether the Member State imposes and allows recovering of excess WHT, and what systems are in place prior to the Directive's implementation.

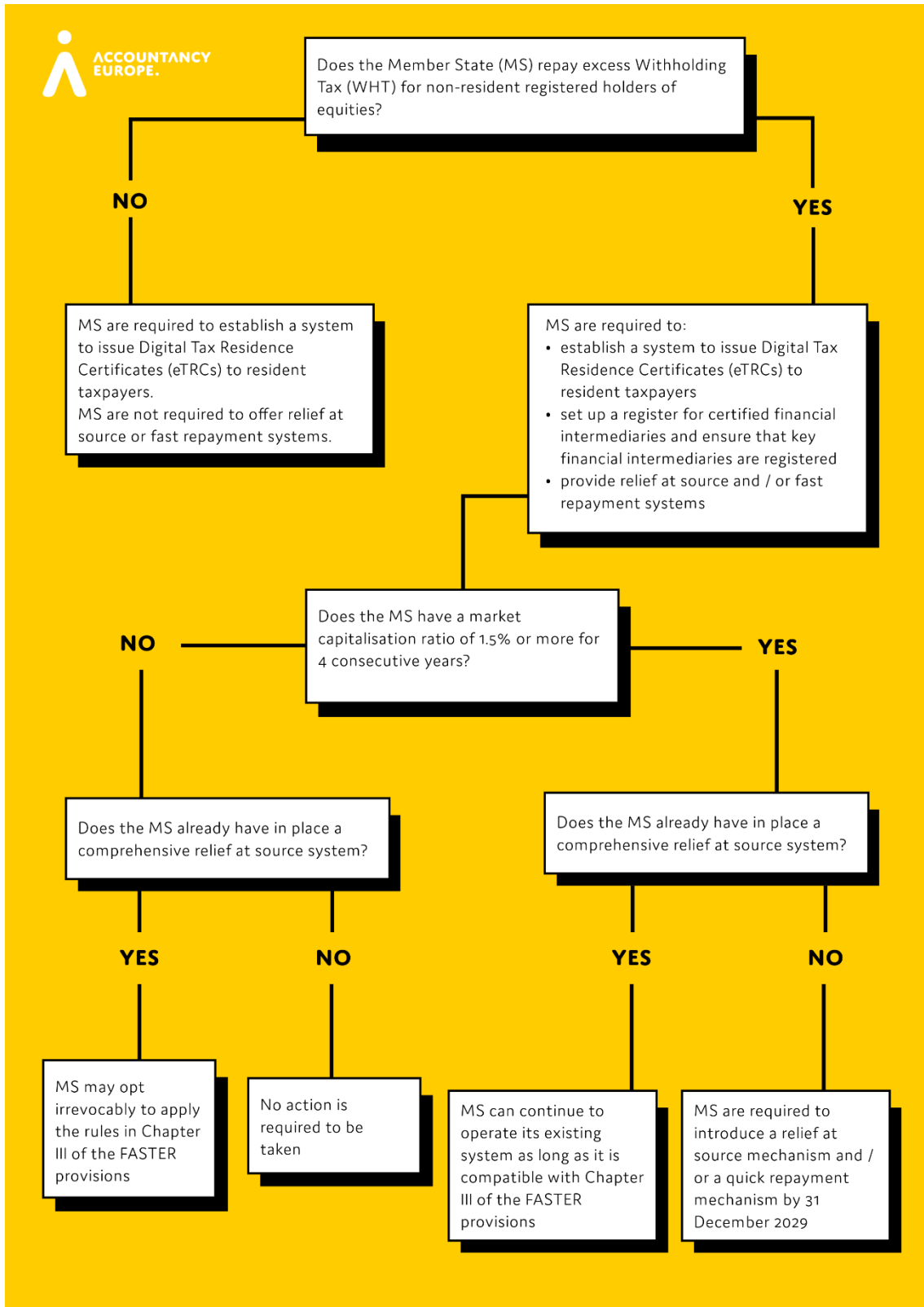
In some jurisdictions where accountants currently handle repayment claims for clients, the new procedures may substantially change or even remove the work that they perform for their clients.

On the other hand, accountants may be asked to help with providing the required information on behalf of their clients to the Certified Financial Intermediary (CFI) or for applying for digital tax residence certificates (eTRC).

¹ https://joint-research-centre.ec.europa.eu/scientific-activities-z/fiscal-policy-analysis-0/corporate-taxation/eu-wide-system-withholding-tax-relief_en

OVERVIEW

The Directive presents considerable flexibility to allow for Member States' particular circumstances and to allow options for relief of excess WHT. The flowchart below summarises the obligations on, and options available to Member States when transposing the FASTER Directive.



THE BASIC PROVISIONS

DIGITAL TAX RESIDENCE CERTIFICATES

Introducing eTRCs is the foundation for the FASTER proposals. Accordingly, all Member States are required to introduce an automated process to issue eTRCs in a common format.

The eTRC is intended to provide the Member State with proof of the income's source subject to WHT, confirming the registered owner's residency. Member States have the option to use eTRC for other taxation matters where proof of tax residence is an issue.

NATIONAL REGISTER OF CERTIFIED FINANCIAL INTERMEDIARIES

Member States that repay excess WHT on dividends are required to establish a national register of certified financial intermediaries (CFIs). CFIs may submit claims to national tax authorities on behalf of the registered owner of the publicly traded share or bond.

Additionally, CFIs will be subject to standardised reporting obligations.

SYSTEMS FOR RELIEF AT SOURCE AND/OR FAST WHT REPAYMENT

A relief at source procedure means that the excess WHT is not paid in the first place, negating the need for the registered owner of the equity to seek repayment.

Member States that repay excess WHT are required to implement a system for relief at source and/or a system for quick repayment of tax withheld on dividends from equities issued on public markets – or to ensure that their existing systems comply with the provisions of FASTER.

Access to relief at source and quick repayment mechanisms can be withheld in specific circumstances, primarily where an increased risk of abuse is anticipated.

Member States have the option to expand their systems to include WHT on interest from bonds listed on public markets.

SCOPE

All Member States are required to implement a system of eTRCs and establish penalties for infringements of national law based on this Directive.

Member States that offer relief from excess WHT on dividends issued from their jurisdiction for publicly traded shares must:

- establish a national register for CFIs
- require registered CFIs to provide registered shareholders access to the national relief system based on this directive

However, a member State is exempt from these requirements if:

- it already has a comprehensive relief at source system, **or**
- it has not had a market capitalisation ratio of 1.5% or more for 4 consecutive years

Market capitalisation ratio is expressed as a percentage 'of the market capitalisation of a Member States to the overall market capitalisation of the European Union' in December each year, based on figures published by the European Securities and Markets Authority (ESMA).

If the Member State has an existing system for either or both relief at source and quick refund, it shall ensure that their systems are compliant with the rules in Chapter III of this Directive.

WHICH CFI MUST REGISTER?

All central security depositories and large institutions that handle dividend payments (and interest on securities where the Member State so opts) are required to register with the national register of the Member State in which the payments originate.

Other financial intermediaries can apply on a voluntary basis if they meet the Directive's requirements of Article 7.

If financial intermediaries have their registration rejected, they can re-apply once the issue that prevented initial registration is rectified.

Registration is required to ensure that details of CFIs in all Member States are publicly accessible. The EC will establish a European Certified Financial Intermediary Portal as a public database of CFIs. This portal will also serve as the access point for financial intermediaries to apply for CFI status. Member States will remain responsible for deciding which financial intermediaries can be registered as CFIs in their jurisdiction. Additionally, the portal will facilitate the automatic exchange of information between the relevant authorities in each Member State.

WHICH REGISTERED OWNERS CAN BENEFIT?

A 'registered owner' is any natural person or entity entitled to receive dividend or interest income from securities as the holder of the security on the 'record date' (the date set by the issuer of the security to determine who will receive the payment).

Apart from individuals, these provisions mean that corporate entities, collective investment funds and pension funds will be allowed to utilise the relief at source and / or quick repayment process instituted by the Member State from which the dividends or interest are paid.

Specific information must be provided to the CFI by the registered individual as detailed below.

THE PROVISIONS IN DETAIL

DIGITAL TAX RESIDENCE CERTIFICATE

All Member States must implement an automated process to issue eTRCs to both individuals and legal entities that are deemed resident in their jurisdiction.

The eTRC must be issued within 14 calendar days of submission of a request, based on the information available to the issuing authority at the time of issue.

An eTRC certifies the deemed residence of the subject of the certificate unless the Member State has evidence that the subject was not resident for all, or part, of the period covered.

The eTRC has no standard duration, except that it cannot cover more than one calendar or fiscal year.

Article 4, paragraph 2, details the information that must be included on the eTRC. Standard formats and protocols will be developed by the European Commission.

RELIEF AT SOURCE AND QUICK REFUND PROCEDURES

The Directive mandates that Member States offer relief at source and / or quick refund of WHT in respect of dividends paid to non-residents only. However, Member States may also opt to provide such reliefs for WHT on payments of interest on publicly traded bonds to non-residents.

CFIs must provide registered owners with the opportunity to claim the reliefs available in the source Member State and registered owners must authorise the CFI to claim relief at source or a quick refund of WHT. Consequently, CFIs must establish and check the eligibility for relief.

For both relief at source and quick refund procedures, CFIs must report certain information to the national competent authority by the end of the second calendar month following the payment date (i.e. for a payment on 21 February 2031, the CFI would have to report by the end of April 2031).

QUICK REFUND DEADLINE

Where a quick refund procedure is available, refunds must be made within 60 calendar days following the end of the period for submitting a refund request. If the relevant competent authority fails to meet this deadline, late payment interest is automatically payable to the registered holder.

For example, for a payment made on 21 February 2031, the CFI must submit the claim and relevant information by the end of April 2031. The competent authority of the source Member State must refund the excess WHT by 29 June 2031 to avoid paying interest.

Member States may reject refund claims for excess WHT if:

- required information is incomplete
- information to reconstruct the payment chain is incorrect
- Member State's risk assessment triggers verification or a tax audit

If requests to use the relief at source and / or quick refund procedures are rejected or excluded, Member States must ensure that a standard refund procedure is available. Information related to anti-abuse provisions (Annex II, E) should therefore be provided.

DECLARATION FROM THE REGISTERED OWNER

The CFI must obtain from the registered owner a declaration that the registered owner:

- is entitled to the relief of WHT in accordance with national law or a double tax treaty – including details of the legal basis and applicable WHT rate
- is the beneficial owner of the dividend or interest payment (if required by the source Member State)
- has not engaged in any financial arrangement linked to the underlying security that remains unsettled, expired or otherwise terminated before the ex-dividend date
- undertakes to notify the CFI of any change in their circumstances without undue delay

VERIFICATION BY THE CFI

CFIs are required to check:

- the proof of tax residence of the registered holder – either by an eTRC or in a form approved by the source Member State where the registered holder is tax resident in a third country
- that the registered holder's declaration and tax residence is consistent with information already held by the CFI
- that the WHT tax rate is appropriate based on the double tax treaty between the source Member State and the jurisdiction where the registered owner is tax resident
- the possible existence of any financial arrangement that has not been settled, expired or otherwise terminated at the ex-dividend date

- that the shares underlying the dividend payment have been owned by the registered owner for more than 5 days before the ex-dividend date.

INFORMATION REPORTING BY THE CFI FOR RELIEF AT SOURCE

CFIs are obliged to report the following information to the national competent authority:

- information about the CFI
- information about the payment recipient
- information about the payor
- information regarding the specific dividend or interest payment
- anti-abuse information

The detailed information requirements are found in Appendix II, A-E

Additionally, Member States may request additional information from the CFI (Appendix II F & G) in respect of the underlying securities for a period of 1 year before and 45 days after the record date and also information about dividends received from depositary receipts.

INFORMATION REPORTING BY THE CFI FOR QUICK REFUNDS

CFIs are obliged to report the following information to the national competent authority (according to Article 13, paragraph 3):

- registered owner's identification of as per Appendix II, B)
- dividend or interest payment identification (Appendix II, D, and G if applicable)
- the basis of the relevant WHT rate and total excess WHT to be refunded
- registered owner's tax residence
- registered owner's declaration

ANTI-ABUSE MEASURES

CFIs that have registered voluntarily can be removed from the register if:

- they breach their obligations under this Directive
- they commit offences or infringements that lead to a loss of WHT revenue
- an inquiry is opened in relation to the CFI on potential fraud or abuse involving WHT

Removed CFIs can be reinstated, and request relief again, if the circumstances that caused the removal have been remedied.

REFUSAL OF REQUESTS OF RELIEF

Member States may fully or partially exclude requests for relief at source or quick repayment if any of the following apply:

- shares were acquired by the registered holder within 5 days before the ex-dividend date
- the dividend payment relates to a security linked to a financial arrangement that was unsettled, expired or terminated before the ex-dividend date

- at least one of the financial intermediaries in the payment chain is not a CFI, and no other CFI has assumed this role
- an exemption of the WHT is claimed
- a reduced WHT rate is claimed, not based on double tax treaties
- the dividend payment exceeds at least 100 000 euro per registered owner and per payment date (unless the registered owner is a pension scheme or a collective investment undertaking)



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