



Operational taxes in the banking industry

A clear focus

The last few years have been a time of unprecedented challenges for those in the banking industry. However, adversity can, in many instances, provide the impetus to re-evaluate and improve upon current practices. One area in which global banking institutions may seek to improve efficiency is in the management of operational taxes. By gaining control over the management of these taxes and the associated reporting obligations a financial institution can turn a significant financial and reputational risk into a distinct competitive advantage.

What are they?

Operational taxes are neither conventional direct or indirect taxes, but are essentially taxes on the customers of a financial institution. The onus, however, remains directly on the financial institution to collect and administer these taxes on behalf of their customers. This presents significant challenges to financial institutions, particularly as responsibility for compliance and reporting will often not fall easily within the remit of any discrete business unit.

How do they impact banking?

The management of operational taxes can be extremely challenging as these taxes can take many different forms, their rates are often dependant on customer-specific documentation and while some taxes are specific to a particular tax jurisdiction others operate across borders, regionally or globally. As such, the cost of compliance coupled with the substantial administrative burden placed on financial institutions can potentially be significant.

Some of the key questions for you to consider include:

- Are you satisfied with your procedures in respect of tax relief at source (TRS) and has your system been Revenue approved?
- Are you satisfied that deposit interest retention tax (DIRT) is being correctly applied and at the appropriate rates to investment products/deposit accounts?
- Are you comfortable that you are operating encashment tax correctly and have you

considered the potential for customers obtaining a refund?

- Are all the necessary returns and payments being made in respect of stamp duty (for example, in respect of cash cards)?
- Are you compliant with your reporting obligations as a paying agent under the EU Savings Directive?
- Are you aware of Foreign Account Tax Compliance Act (FATCA) reporting requirements? The introduction of the FATCA legislation in the US imposes considerable withholding tax obligations and/or reporting obligations on all institutions that have dealings with US investors.
- Are you satisfied that your company is in compliance with all requirements to make third party returns, or additional reporting, for instance, under s.891A or s.891B TCA 1997?
- Have you suffered withholding tax and have you considered the potential to reclaim such tax suffered in light of recent EU case law?
- Are your customers eligible for exemption from withholding tax? If so, how do you manage the associated documentation required to qualify for this exemption?
- Have you considered the impact of operational taxes when developing your products and how they can affect the attractiveness of your product offering to customers?

Non-compliance can trigger significant financial risks. For example, under-withholding can obligate the financial institution to make a payment to Revenue at a later date when it is unlikely to be able or willing to make a claim on the customers. Tax authorities might also impose fines and penalties.

Operational taxes have created a delicate balancing act for financial institutions. Customers are likely to be dissatisfied with any financial institution that fails, for instance, to withhold correctly, but are also likely to be unimpressed where they are subjected to excessive, superfluous requests for information exceeding the requirements of the particular withholding tax regime.

Contacts

How we can help?

Deloitte offers a wide range of tax services to support you in managing your tax compliance obligations and meeting your administrative requirements.

Our range of specialists, with many years experience of the particular challenges presented by global compliance with operational taxes, managing reporting systems and in respect of withholding tax related issues, can assist you with effective management of operational taxes.

Our dedicated team are ready to assist you with:

- A hands-on health check/audit to assess the current level of compliance with various regulatory regimes.
- To advise on the effectiveness of systems currently in place and to identify and highlight any weaknesses.
- To identify any additional withholding tax or administrative requirements.
- To review the procedures in place to capture all the required documentation and declarations.
- To identify the potential for any savings or withholding tax reclaims.
- To perform any additional advisory services in respect of reporting or withholding obligations.

By gaining control over management of Operational Taxes, with the support of our focused team, you can turn a significant financial risk into a distinct competitive advantage.

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