



Operational taxes in the funds industry

A clear focus

The Irish funds industry prides itself on the vast expertise of its service providers and the ability to effectively meet investor needs. With assets under administration of €1.9 trillion in over 11,000 funds (domiciled and non-domiciled), the opportunities for Irish and foreign investors are wide ranging. However, the importance of an opportunity is knowing the “threat” that comes with it. Over the last few years, operational taxes have come to the forefront and have been a topic of much debate. With the introduction of more regulatory requirements comes an increased exposure to operational taxes. Therefore there is an ever-growing need to focus on the effect of the various operational taxes regimes on the funds industry.

What are they?

Operational taxes are neither conventional direct or indirect taxes, but are essentially taxes on the investor in a fund. The onus, however, remains directly on the fund to collect and administer these taxes on behalf of their investors. This presents significant challenges for funds, particularly as responsibility for compliance and reporting will often fall to a service provider.

How do they impact funds?

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 funds can potentially be significant.

Some of the key questions for you to consider include:

- Are you aware which operational taxes could affect you?
- Do you have an understanding of what a chargeable event is, how it is triggered and what taxes are triggered by same? Have you procedures in place to collect the associated exit taxes?
- Have you suffered withholding tax and if so, have you considered the potential to reclaim

withholding tax suffered in light of recent EU case law?

- Are your investors eligible for exemption from withholding tax? If so, how do you manage the associated documentation required to qualify for this exemption?
- Are you aware of the EU Savings Directive and FATCA (Foreign Account Tax Compliance Act) reporting and withholding requirements? If so, have you considered your obligations in respect of these?
- Have you considered putting safeguards in place to avoid suffering undue withholding tax in the future?

Non-compliance can trigger significant financial risks. For example, under-withholding can obligate the fund to make a payment to Revenue at a later date when it is likely to be unwilling or unable to make a claim on the investors. Tax authorities might also impose fines and penalties, depending on the regime and the degree of non-compliance.

Operational taxes have created a delicate balancing act for funds. Investors are likely to be dissatisfied with any fund 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.

How we can help?

The Operational taxes sphere is complex and varied with the possibility that compliance can often fall through the cracks, particularly as responsibility may not easily fall within the remit of any discrete business unit. 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.

Contacts

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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