

Withholding tax reclaims opportunities



Your challenge

- There are significant opportunities based on the EU Treaty and Court cases for Luxembourg investment funds (UCITs or non-UCITs) to reclaim withholding tax suffered at source on either dividends or interest of EU source received over the past years.
- Those opportunities were built out from ECJ cases applying the non-discrimination principles (in particular, the Aberdeen case ruled in 2009) as taken into consideration locally in each Member State by local tax courts or local tax authorities. The impact on the Luxembourg fund industry is significant since it might be possible to recover up to the entirety of the tax withheld locally over the past years.
- However, there is no uniformity between EU Member States with respect to the statute of limitation or the current reclaim procedures meaning that the conditions will be different depending on the Member State involved.

Our solution

- Deloitte developed a significant knowledge of the reclaims procedure in each EU Member State and gained strong experience in helping Luxembourg investment funds to recover unduly tax withheld in many different jurisdictions. Deloitte is able to assist European and non-European investment funds efficiently through its extensive network.
- We are providing tailor-made solutions to our clients from the feasibility study phase up to the effective filing of tax reclaims.
- Our services indeed usually consist in the following: cost/benefit analysis based on the client's situation, assistance with the filing of tax reclaims (i.e. collection of supporting documentation, filing of the claims, liaising with the local competent authorities, etc.) as well as proper monitoring of the reclaims.

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