

SMPG – Tax sub-group

Telephone Conference Minutes

18th January 2018

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**Attendees**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Country** |  | **First Name** | **Last Name** | **Institution** | **Participation** |
|  | AU | Mrs | Narelle | Rutter | BP2S |  |
|  | BE | Mrs | Véronique | Peeters | BNY Mellon | Excused |
| Facilitator | N/A | Mr | Jacques | Littré | SWIFT |  |
|  | CA | Mr | Cairbre | Cowin | RBC IS | Excused |
|  | CH | Mr | Reto | Baumgartner | Credit Suisse | Excused |
|  | DE | Mr | Daniel | Schaefer | HSBC | Excused |
|  | DE | Mr | Thomas | Rockstroh | Clearstream |  |
| Co-chair | FR | Mr | Jean-Pierre | Klak | State Street |  |
|  | FR | Mr | Karim | Djenadi | BP2S | Excused |
|  | FR | Mrs | Celine | Bohm | BP2S | Excused |
|  | FR | Mrs | Alexandra | Sellam | BP2S | Excused |
|  | IT | Mrs | Paola | Deantoni | Societe Generale | Excused |
|  | LU | Mr | Nicolas | Godfrey | Clearstream |  |
|  | LU | Mr | Bernard | Lenelle | Clearstream | Excused |
|  | SE | Mr | Urban | Hane | Nordea |  |
| Co-chair | SG | Mr | Jyi-Chen | Chueh | Standard Chartered |  |
|  | UK & IE | Mrs | Mariangela | Fumagalli | BNP Paribas | Excused |
|  | UK & IE | Mr | Gabriel | Sampaio | BNP Paribas | Excused |
|  | US | Mr | Paul | Fullam | FIS Global | Excused |
|  | US | Mrs | Vandana | Pasricha | BBH | Excused |
|  | US | Mr | Caleb | Lanfear | BBH | Excused |
|  | US | Mr | Ian | De Sacia | DTCC | Excused |
|  | US | Mr | Steven | Sloan | DTCC | Excused |
|  | XS | Mrs | Delphine | Haillez | Euroclear |  |
|  | XS | Mr | Eric | Marega | Euroclear | Excused |
|  | ZA | Mr | Sanjeev | Jayram | First National Bank |  |
|  | ZA | Mr | Dale | Van Rayne | First National Bank | Excused |
|  | ZA | Mr | Yusuf | Basha | First National Bank |  |

# Approval / comments on November 23rd minutes call

Last minutes approved

# New comer in the Tax sub-group

The group is happy to welcome Urban Hane, from Nordea who will represent more generally Scandinavian countries in the Tax sub-group

# CA 360. Taxation on security distributions

During our conference call held on 15 September ZA raised an enquiry with regards to tax on security distributions and cash fractions. Please some detail in that regard below.

1. Currently all rate and amount codes/qualifiers to withhold taxes are available in the cash movement blocks (sequence E2 and D2) of the MT564 and MT566. Therefore in instances where tax is applicable to security entitlement the effects thereof are being communicated in narrative fields. Resultantly, due to the narrative, STP is affected thereby possibly requiring manual invention. ZA will appreciate it if we could investigate the possibility of making the tax codes/qualifiers for rates and amounts available in the securities movement blocks (sequence E1 and D1) the MT564 and MT566.   
We are of opinion that this will improve communication and possibly increase STP.

2. Similarly there is also a challenge in communication when the cash fraction (CINL) is taxable.   
An example would in a DVOP, whilst the security entitlement in itself is not taxable the cash fraction is still considered to be a dividend and thus withholding taxes become applicable. We are not aware of a market practice or standard in this regard and the context is communicated in narrative fields. We will appreciate guidance in this regard and also efforts to possibly improve communication and automation.

Discussions during Dec 15th call :

Why not in sequence E? Sanjeev explained that, in sequence E, it would be impossible to show the Tax calculated on the entitlement.

Delphine suggested to use the Cashmove to indicate the Tax to debit.

Another proposal is to use the Taxation indicator : 22F : TXAP and the price 90a – CAVA (Cash Value for Tax)

Gabriel explained that, in the UK, the issuers are used to advise about the taxability of an event and then the tax is applied when the distribution of the securities is performed.

Sanjeev explained that there is the same taxation applied to all beneficiaries, it could be OK but how does it work if the rate is different ? Gabriel explained that, in the UK, it is a 1 for 1

Please see attached example from the UK Market.



Sanjeev also provided 2 examples: one with tax on cash fractions and another with tax on shares.

1. Mediclinics International Limited – Scheme of arrangement

Company made a scheme of arrangement to shareholders.

Shareholders afforded an option to elect for the repurchase option or an exchange option to receive Al Noor shares.

Repurchase option was subject to dividends withholding tax, issue price of the stock was utilised to determine the dividend rate and shareholders had to pay DWT on the stock they received even though they did not receive cash.

Withholding of tax (DWT) on security entitlement was processed manually and reported to the tax authority accordingly.

1. Brait Se (BAT) – Bonus Share Issue with a Cash Dividend Alternative (dividend with option)

Issuer declared bonus issue however shareholders could elect to receive cash option.

Receipt of stock is of capital nature thus is not taxable.  
Fractions arising out of share entitlements are rounded down thus fractional cash entitlements are payable.

Fractional rate is different from dividend rate however the fraction is taxable.

Withholding of tax (DWT) on fractional cash payouts, currently not possible via system.



Comments during January call:   
Rate will depend on the client taxation. The maximum rate is always announced in the MT564 and MT566 depends on the client => to see how it works in South Africa and if case applicable

June 15th call:

it is reminded that during the April SMPG, the WG supported the proposal made by Delphine at the December conference call to rather open a cash movement sequence in order to use the rates and amounts over there. No cash amounts should be ever placed in a securities movement sequence or securities quantity in the cash movement sequence.

September call : Sanjeev submitted to the ZA NMPG. Waiting for a feedback

November call : Thomas explained that in Germany, there is a similar situation where fractions are taxable. But the stock part is paid as guaranteed income payment which includes also the non- income part => difficult to separate.

Attached a description with the issue taxation on stock (outcome of CA).



**Action**:

ZA NMPG to come back to Sanjeev

Tax on fractions : case to revisit according to ZA Tax Authorities feedback.

# CA 315 Extending CA MPs to ISO 20022 - How to tax cash dividend events and reinvest on cash dividend events in the context of an omnibus account.

Topic discussed within the CA SMPG.

Below the comments provided during the November CA SMPG call

No issues in AU. The omnibus account is split in different categories of tax regimes.

No issues in SE, the default (highest) tax rate is applied and is followed by a tax breakdown process with domicile certificates requested.

No Issue in DE with reinvestments either.

In RU, according current legislation in Russia we do not have account type «omnibus account». Reinvestment within a CA is not supported by legislation in Russia. Beneficial owners does not have such possibility (t reinvest proceeds) within a CA.

**Action:**

The Tax Sub Group will deal with the more global “tax breakdown” issue

# Other topics

1. **Question from Delphine related to GMP1**

If a client has an omnibus account for which he provided a breakdown ending in several tax rates applicable.   
We are booking the credit for the full account in one movement ==> a single MT566 should be reported.   
Can we report several cash moves to be able to provide the breakdown?

Comments during March call:

Reminder: the current rule is 1 posting = 1 MT566

Narelle explained that in Australia, they can split between Frank and Unfrank.

So more generally, what about repeatability of qualifiers? TAXR is not repeatable.

We can also refer to the question from the Polish Market on the Pre-Advice of Cash: CA362

Germany will probably have a similar case next year (due to changes in the Tax law).

Comments during June 15th call:

The issue is that a client = an omnibus account, Consequently, for the payment : a single MT566 so a breakdown is necessary to be reported

Should we go to manage several cashmoves?

It seems that BBH has already a similar case, Dana will investigate internally

What Market Practice should we put in place and how should we document the GMP1?

For Global Custodians linked to BP2S : there are several cashmoves

**Action**:

Examples to collect by Tax sub-group participants.

To be discussed within the CA SMPG (not covered in Luxemburg due to a lack of time).

1. **Information about the German Market**

Presentation made by Thomas regarding the changes of the Tax law (known as new regulation “InvStG”) and a presentation regarding ‘Tax issues’ on T2S (focus on Market claims).

Major highlights:

* No more cash events on accumulation funds (Thesaurierenden Fonds)
* Due to the new rules, there will be some obligations for the foreign investment funds related to the Fund Status Certificate that they will have to manage.

Advantages of the law:

- For shareholders, no more tax for incomes distributed by the fund

- For the fund itself: taxation moving from 26% to 15%

More generally, the goal of the new law is to remove the Tax discrimination between German funds vs non-German funds.

Open issues: Market claims. Thomas explained that the key point is to identify for whom the transactions have been made. The Custodian can identify the Financial Institutions and not the final client. Current proposal is that Market Claims settle as gross in T2S.

FAQ related to the new law should be published by German authorities.

 

**Action**:

Any question on the new law can be raised directly to Thomas or via Jyi-Chen / Jean-Pierre

# Next Conference Call

- Thursday 15th March 2018

- Thursday 3rd May 2018

All calls from 2 to 4 pm CET

**------------------------ End of the Meeting Minutes -----------------**