

Feedback to the European Commission's Roadmap on Withholding taxes

Invest Europe welcomes the European Commission's initiative to investigate a common EU-wide system for withholding tax on dividend or interest payments, as we encourage the idea of removing tax barriers to cross-border investment.

We support the principles of tax simplification and closure of abusive practices, and initiatives to make such processes simpler and clearer and decrease any cross-border tax frictions would be appreciated. In this regard, a simplified and streamlined EU-wide system, provided that it is done right, could very well be part of the solution and is worth exploring further.

At first glance, the options suggested in the Roadmap would all contain good ideas when it comes to facilitating withholding tax exemptions. We would however need to understand better the impacts of these different options, in order to provide more detailed feedback.

Nonetheless, we would like to flag initially the following points, which we believe are key to consider in case of any potential policy changes.

From a private equity perspective, it is key that the exemptions from withholding tax under EU tax directives (the Parent-Subsidiary Directive and the Interest and Royalties Directive) are protected; this is also true for the exemptions and reductions from withholding tax under the Double Tax Treaties. This is essential to ensure tax neutrality of the funds, and thus ensure that an investor's choice between investing in EU businesses directly or via a private equity fund is not distorted by differences in tax regimes.

While encouraging the idea of a common EU-wide system for withholding tax, we believe that it must be clarified that as long as the relevant agreements are in place, withholding taxes will not be charged solely for the reason that a holding company is used in the investment structure. Changes to the existing system must therefore be considered carefully.

In the private equity industry, intermediaries such as holding companies are set up for various genuine and substantive commercial or legal purposes, and are in no way used for aggressive tax planning or tax evasion. Such legitimate purposes could for example be to offer lenders single point of enforcement, to organize governance amongst various shareholders, in order to ring fence investment by a category of investors (e.g. management), for regulatory purposes, in order to launch an IPO, etc.

These holding companies may have limited activity on their own, they do not need a lot of economic substance (in terms of formalities such as employees, offices, etc.) for their function, and they are mainly active when there is an investment activity. However, they are required for investment purposes, and this facilitates international investment and job creation. Therefore, it must be secured that they are not

unfairly targeted and that withholding taxes are not charged at portfolio company level because of the existence of such intermediaries, irrespective of whether the holding companies decide to re-invest the proceeds or to distribute the proceeds derived from the portfolio companies to the funds and their investors soon after receipt of the proceeds; an approach which is already recognised by several jurisdictions.

Contact

For further information, please contact Martin Bresson (martin.bresson@investeurope.eu) at Invest Europe.

About Invest Europe

Invest Europe is the association representing Europe’s private equity, venture capital and infrastructure sectors, as well as their investors.

Our members take a long-term approach to investing in privately held companies, from start-ups to established firms. They inject not only capital but dynamism, innovation and expertise. This commitment helps deliver strong and sustainable growth, resulting in healthy returns for Europe’s leading pension funds and insurers, to the benefit of the millions of European citizens who depend on them.

Invest Europe aims to make a constructive contribution to policy affecting private capital investment in Europe. We provide information to the public on our members’ role in the economy. Our research provides the most authoritative source of data on trends and developments in our industry.

Invest Europe is the guardian of the industry’s professional standards, demanding accountability, good governance and transparency from our members.

Invest Europe is a non-profit organisation with 25 employees in Brussels, Belgium.

For more information please visit www.investeurope.eu.

