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Claim for refund of Austrian withholding taxes on dividend income

A guidance to the completion of the refund form

May 2021

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Claim for refund of Austrian withholding taxes
Introduction

Withholding taxes on Austrian dividend income

Distributions paid by an Austrian corporation are generally subject to 27.5 % Austrian withholding tax, if the distribution does not qualify as a repayment of capital but as a distribution of income (i.e. as a dividend). The withholding tax on dividend income has to be levied and paid to the tax office by the Austrian corporation. Shareholders, who are not tax resident in Austria, are entitled to reclaim part or all of the withholding taxes on the basis of

- a double tax treaty (DTT) concluded between Austrian and the shareholder's country of residence,
- the EU Parent-Subsidiary Directive or
- another specific provision in Austrian tax law (Fokus Bank claim, EU pension fund claim).

Should a foreign corporation, which is comparable to an Austrian corporation, be tax resident in a country, which has not concluded a DTT with Austria, Austrian dividend income is subject to 25 % tax. Therefore, such shareholders can reclaim 2.5 percentage points of the 27.5 % withholding tax.

How does the refund work?

In 2018 the legal regulations related to the refund of Austrian withholding taxes on income from capital assets were changed (see § 240a of the Austrian Federal Fiscal Code). The changes provide that the claim for refund must be preceded by a pre-notification (which has to be submitted electronically via the website of the Austrian Ministry of Finance). This new procedure applies to claims for refund filed after 31 December 2018 irrespective of the calendar year for which the claim is filed. The Ministry of Finance has published general information on the new procedure on its website in English (https://www.bmf.gv.at/en/topics/taxation/double-taxation-agreements/relief-from-austrian-withholding-taxes-under-dtc.html).

The new filing procedure provides for the following steps:

Step 1   For the refund of Austrian withholding taxes on dividend income paid by an Austrian public limited company ("Aktiengesellschaft"; "AG") the web-based form "Dividends from public limited liability companies (AG)" (abbreviated as "DIAG") has to be completed and submitted electronically to the tax office.

Step 2   The transmitted pre-notification has to be printed out and duly signed by the applicant. In addition, the applicant must obtain the certificate of residence from the local tax office on the printed pre-notification.

Step 3   After obtaining the certificate of residence, the pre-notification has to be sent by post together with the required supplements to the Austrian tax office "Finanzamt für Großbetriebe".

## When can the claim for refund be filed?

A claim for refund cannot be filed before the end of the calendar year, in which the dividend was paid to the shareholder, and has to be filed by the end of the fifths calendar year (in case of German tax residents by the end of the fourth calendar year) following the calendar year, in which the dividend was paid. Therefore, a claim for refund of withholding taxes on a dividend paid in 2021 can be filed after 31 December 2021 at the earliest (i.e. the pre-notification cannot be transmitted before 1 January 2022) and has to be filed by 31 December 2026 (in case of German tax residents by 31 December 2025) at the latest (i.e. the printed and signed pre-notification form including the confirmation of residence has to be sent to the tax office on 31 December 2026 or in case of German tax residents on 31 December 2025 at the latest).

The purpose of the guidance

This guidance solely provides instructions on the completion and transmission of the pre-notification form for the refund of Austrian withholding taxes on dividend income from public limited liability companies and does not contain any information on the legal requirements related to refunds of Austrian withholding taxes (such as, for example, on the entitlement to claim the refund of Austrian withholding taxes or on general procedural tax law). It has to be considered that for specific shareholders, such as investment funds or pension funds, specific rules apply and specific documentation has to be provided.
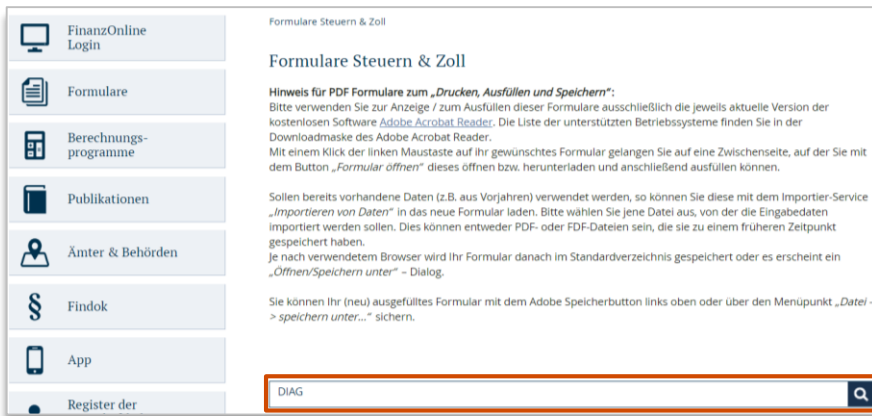
Claim for refund of Austrian withholding taxes
How to find the pre-notification form for dividend income
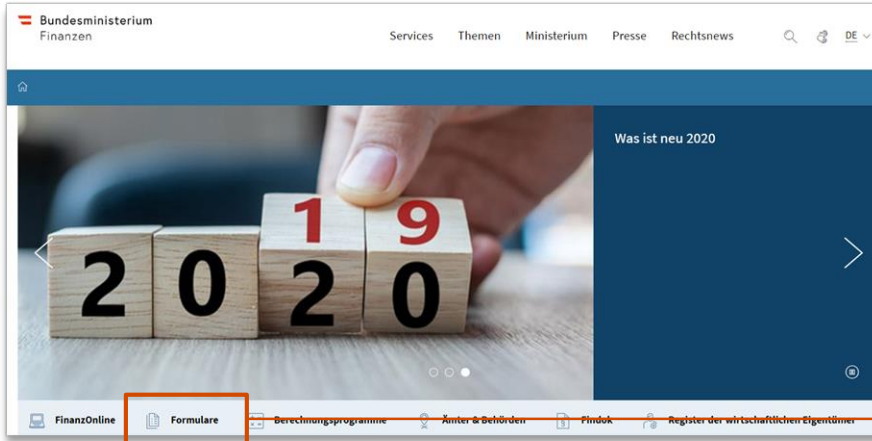
Step 1

Go to www.bmf.gv.at and click on "Formulare".

Step 2

Enter "DIAG" in the search mask.

Step 3

Click on "ZS-RD-DIAG" and then on "weitere Formulare and Informationen".

Step 4

Select the German version (click on "DIAG (Web-Formular)") or the English version (click on "DIAG-Englisch (Web-Formular)") of the web-based form.

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competent authority

Finanzamt für Großbetriebe
Postfach 251
1000 Wien
AUSTRIA

Data Protection (Privacy) Policy

Data Protection (Privacy) Policy available at www.bmf.gv.at/datenschutz or in paper form at all tax and customs offices

General data

in the year * 2019

Applicant * Legal entities

legal basis * due to the Austrian double-taxation agreement

1. Information about the applicant

Withholding tax No of the Austrian tax authority

Company name * XYZ plc

Tax No in the state of residence or equivalent identification No * 12345678

Date of incorporation (DD.MM.YYYY) * 01.01.2017

No in the commercial register or similar institution in the applicant's state of residence * 87654321

Legal form (please specify in detail) * Public Limited Company

Address (Street) * London Street

House No * 2

Entrance / Floor

Door

Postcode * EC2N2DL

City * London

Country * United Kingdom of Great Britain and Northern Ireland

Telephone number

E-mail address

2. Information about representative, if applicable

Last name / Company name

First name(s)

Academic degree

Type of authorisation (please tick as appropriate)
☐ Financial authorisation ☐ Recipient authorisation ☐ Power of representation

Address (Street)

House No

Entrance / Floor

Door

Postcode

City

Country

Telephone number

E-mail address

[Cancel] [More...] [Forward]

Select the legal basis for the refund. You can choose the following:

(a) Refund due to a double-taxation treaty (DTT)

In case of a treaty-based claim, the difference between the 27.5% Austrian WHT and the tax rate on dividends in the relevant DTT will be refunded (if the relevant DTT stipulates that Austria may tax dividends at e.g. 15 %, 12.5 percentage points are refundable).

(b) Refund due to § 21 para 1 no 1a KStG (Fokus Bank Claim)

In case of corporations resident in the EU/EEA, the total Austrian WHT will be refunded, if the Austrian WHT cannot be credited on the basis of a DTT in the country of residence.

(c) Refund due to § 6 KStG (EU pension funds)

Dividends paid to EU pension funds, which are comparable to Austrian pension funds, are tax exempt in Austria. Thus, in case of foreign pension funds the total Austrian WHT will be refunded.

(d) Refund due to § 94 no 2 EStG (EU Parent-Subsidiary Directive)

Under certain conditions § 94 no 2 EStG provides for a tax exemption for foreign corporations resident in the EU holding at least 10% in the Austrian corporation (parent-subsidiary exemption).

(e) Refund due to § 98 EStG

In case of corporations resident in country without a DTT with Austria, 2.5 percentage points will be refunded.

When applying for a refund of Austrian WHT for the first time, the applicant receives a Withholding Tax Number (this will be sent by post), which must be quoted in all future refund procedures.

Therefore, when completing this web-based form for the first time, leave this box empty. For future claims enter the Withholding Tax Number provided by the tax office.

To be completed only, if you have appointed a representative (i.e. an Austrian certified tax advisor), who files the claim for refund.

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3. State

State of residence at the time of inflow of the earnings *	United Kingdom of Great Britain and Northern Ireland
Country of domicile *	United Kingdom of Great Britain and Northern Ireland

4. Requested repayment (total of all individual amounts in €)

Repayment amount *	1125

Enter the total amount of Austrian WHT, which shall be refunded under this claim.

5. Details for the transfer of the repayment amount (banking information) *

Please provide us with the information needed for the repayment.

Account holder	XYZ plc		
IBAN (International Bank Account Number)	GB29NWBK601613319268	BIC (Bank Identifier Code)	MIDLGB22
Sort code / Swift		Country code	
Account No			i
Name of the financial institution	ABC International Bank		
Address of the financial institution	1 Canada Square, London, E11 2HQ, United Kingdom		

Cancel | More... ▲ | Back | **Forward**

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6A. General information

1. Did the applicant have a residence in Austria at the time of inflow of the specified dividends? * ○ yes ○ no

If so, provide the address

remaining characters: 150

Is this the principal residence? * ○ yes ○ no

2. Do the specified dividends flow into a permanent establishment in Austria or into an Austrian partnership in which the applicant holds interest? * ○ yes ○ no

3. At the time of inflow of the specified dividends, did the applicant have the right to use the shares from which those dividends originate, and did the applicant collect these yields on his / her own account? * ○ yes ○ no

4. Did any sale, loan or retirement of the shares take place in the year of disbursement of the dividends for which a repayment of capital returns tax is requested? * ○ yes ○ no

5. Has the applicant received the above shares under a contract, option or other arrangement that could require the applicant to resell or otherwise transfer such or equivalent investments? * ○ yes ○ no

6. Does the repayment request concern dividends due to the profit distribution of a publicly traded corporation? * ○ yes ○ no

Required documents

If a **repayment of the capital returns tax on dividends** is requested **based on the profit distribution of a publicly traded corporation** (see Section 6A, Question 6), please enclose the following with the application to be submitted by mail:
• Documentary evidence showing on which custodian account the affected shares were on the last day before the ex-date;
• evidence of who owned the custodian account on the last day before the ex-date;
• evidence of the turnover on safe-custody accounts relating to the affected shares for the period from one month before to one month after the ex-date.

Note:
The ex-date is the day from which on the share is no longer traded with dividend entitlements.

If a **repayment pursuant to § 21 I 1a of the KStG 1988 is requested**, please annex documentary evidence that the withheld capital returns tax cannot be credited in your state of residence to the application to be submitted by mail. Such documentary evidence may be provided, for example, by a confirmation from the tax administration of the state of residence or a tax assessment notice clearly indicating the non-creditability of the Austrian capital returns tax.

If a **repayment due to the exemption for foreign pension funds in § 6 of the KStG 1988** as defined in § 5 IV of the Austrian Pension Fund Act is requested, enclose with the first repayment request documentary evidence of approval of the applicant foreign pension fund by the supervisory authority of its state of origin, compliant with Directive 2003/41/EC, as well as the statutes/articles of association of the applicant pension fund.

Subsequent applications must then be accompanied by documentary evidence of the current authorisation, within the meaning of Directive 2003/41/EC, by the supervisory authority of the state of origin of the foreign pension fund, if the most recently submitted documentary evidence by the supervisory authority of the state of origin of the applicant pension fund was issued for a period already more than 3 years in the past.

The questions on the beneficial ownership raised in section 6A of the web-based form correspond to the questions in the section A of the former form ZS-RE1A, which was in use for claims filed before 2019.

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6B. Special information for legal entities

1. Does the applicant legal entity perform an operational activity exceeding the scope of asset management? * ○ yes ○ no

If so, please indicate the type of business:

remaining characters: 133

2. Does the applicant legal entity employ its own workforce, and does it have own premises to operate? * ○ yes ○ no

3. Do shareholders resident in Austria hold more than 10% in the applicant company at the time of inflow of the specified dividends? * ○ yes ○ no

[Cancel] [More... ▲] [Back] [Forward]

> The questions on the beneficial ownership raised in section 6B of the web-based form correspond to the questions in the section B of the former form ZS-RE1A, which was in use for claims filed before 2019.

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7. Calculation of the repayment claim

Field	Value
Designation (name) of the domestic distributing company *	S&T AG
ISIN (international securities identification number) *	AT0000A0E9W5
Number of shares *	100000
Extent of interest in % (only to be reported if higher than 1%)	
Account No *	1122334455
Date of acquisition (DD.MM.YYYY) *	19.09.2015
Date of sale (DD.MM.YYYY)	
Date of inflow (DD.MM.YYYY) *	29.05.2019
Date of dividend distribution resolution (DD.MM.YYYY)	
Ex-date (DD.MM.YYYY)	
Gross amount of the earnings (in €) *	16000
Withheld capital returns tax (in €) *	2475
Repayment amount (in €) *	1125

[X Delete]

[+ New]

> Indicate the number of the securities account in which the shares are held.

> Should the shares have been acquired successively, state the last acquisition date.

> The sum of the repayment amounts from the various shareholdings has to correspond to the repayment amount stated under section 4 of this web-based form.

> To enter additional shareholdings click on "New". The claim can be made for any number of shareholdings.

[Cancel] [More... ▲] [Back] [Forward]

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Please check your information
This data will be transmitted electronically. Please check your details again.

Your entries

Receiver Finanzamt Bruck Eisenstadt Oberwart
Neusiedler Straße 46
7000 EISENSTADT
AUSTRIA

[Cancel] [More... ▲] [Back] [**Send**]

To complete the pre-notification click on "Send" at the end of this page. The pre-notification will then be transmitted to the tax office.

Please note that when transmitting the pre-notification, the claim is not deemed to have been officially filed (the official filing requires the sending of the hard-copy form by post to the tax office – see below).

Before transmitting check the information for completeness and accuracy.

When clicking on "Send", the following page will be displayed:

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The advance notification was successfully accepted.

ABZ-DIAG-2019-88gDWuh2zkC56BCxoFCnPw1411

[Save entries] You can use the data you have entered to auto-fill-in other online forms in the future.

Available documents
- **Formulareingabe.pdf**

ZS-RD-DIAG (v1.0.2)

An automatically generated transaction number is assigned to the pre-notification, which is also shown on the form to be printed and duly signed. This is not the Withholding Tax Number (see section 1 of the web-based form), which will be sent by the tax office to the applicant separately by post.

Download, save and print out the transmitted form. The next steps are as follows:

1. **Obtain the certificate of residence under section 8 of the printed form from your local tax authority.***

2. **Sign the form.**

3. **Send the signed form including all supplements mentioned under section 6A of the web-based form to the tax office "Finanzamt für Großbetriebe" (see address on the form).**

By clicking on "Save entries" the data entered in the web-based form can be saved in a separate file (fsxml-file). This file can be used to fill in a form automatically (see next page).

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Save form data
Here you can save the data you have entered to your own hard disk for reuse. The standard data storage format in this case is fsxml. The data can only be imported and displayed via the e-form. To transfer the stored data (fsxml file) to a new e-form, just open an empty form and use the "Load data" function.

Step 1
Click on the link 'Formulardaten zu ZS-RD-DIAG (v1.0.2).fsxml'.

Step 2
Please enter a name for your file.

Step 3
Store the file in the directory of your choice.

Form data: **Formulardaten zu ZS-RD-DIAG (v1.0.2).fsxml**

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ZS-RD-DIAG (v1.0.2)

* According to an information recently published by the Austrian Ministry of Finance applicants resident in Mexico, Thailand, Turkey or the US can provide separate certificates of residence (i.e. it is not necessary to certify the residence on the Austrian form).
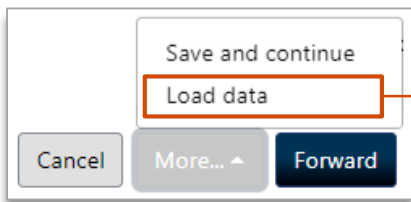
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How to save and amend pre-notifications

Save and amend pre-notifications
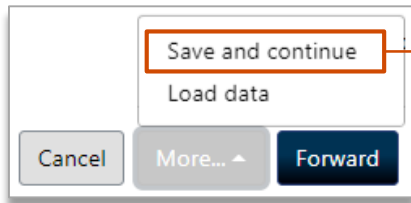
In the course of filling in the web-based form, the data can be saved in a separate fsxml-file at any time. To save the data click on "More" (at the end of each page) and on "Save and continue".

When clicking on "More" and on "Load data", a previously saved fsxml-file can be uploaded. The web-based form will then be filled in automatically with the data saved in the fsxml-file.

Is it possible to amend a pre-notification already transmitted to the Austrian tax office?

A pre-notification already submitted to the Austrian tax office cannot be amended, however, it is possible to submit a new pre-notification. For this purpose

- upload the fsxml-file saved immediately after transmitting the web-based form to the tax office,

- make the necessary amendments and

- transmit the pre-notification again to the tax office.

The form to be sent to the tax office in hard copy will show a new transaction number. The new transaction number enables the tax office to assign the hard copy form received by post to the correct pre-notification.

Is it possible to withdraw a pre-notification transmitted to the tax office?

No, this is not possible. Pre-notifications transmitted to the tax office will be saved until the end of the statutory limitation period (i.e. the pre-notification will be saved until the end of the fifth year following the calendar year, for which the pre-notification was transmitted).

Any questions? We are happy to assist.

Johannes Edlbacher
Partner Financial Services
Tel: +43 1 501 88-3627
E-Mail: johannes.edlbacher@pwc.com

Linda Hattas
Manager Financial Services
Tel: +43 1 501 88-3439
E-Mail: linda.hattas@pwc.com

pwc.com