Grant Thornton

An instinct for growth™

Multijurisdictional tax reporting for funds

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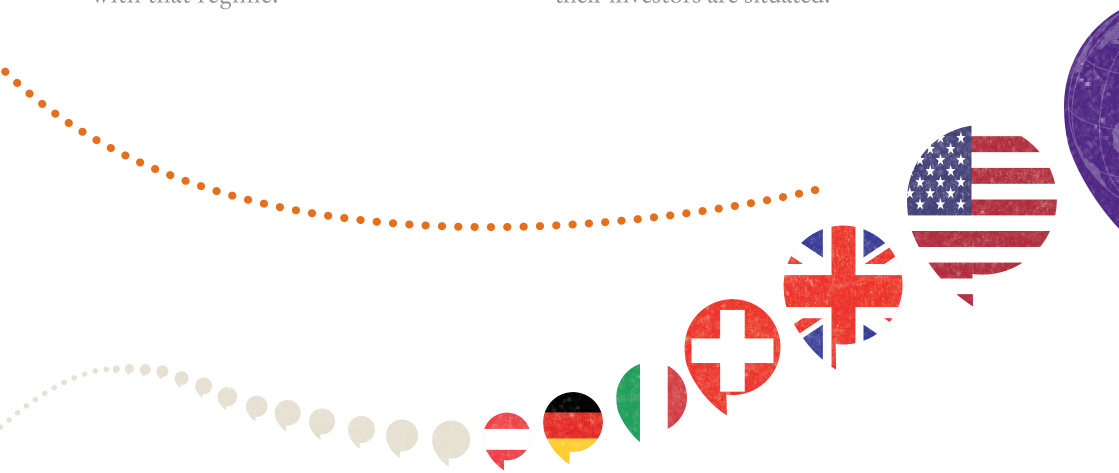
Funds typically have investors located in various jurisdictions each of which has its own tax reporting requirements. These requirements are often complex and differ considerably from jurisdiction to jurisdiction. Falling foul of these rules can result in adverse consequences for investors domiciled in these countries.

This document covers the common jurisdictions in which fund and investor reporting are required, highlighting the regime in place and the reporting requirements associated with that regime.

Grant Thornton offers multijurisdictional tax reporting to help funds distributing in these jurisdictions, to ensure they are complying with the local reporting requirements of the country in which their investors are situated.



Benefits of working with Grant Thornton

- it will result in time and costs savings for the fund administrator;
- the fund will receive an efficient and effective reporting service provided by an international firm which has developed strong relationships with tax authorities and regulators in local jurisdictions; and
- a central point of contact to coordinate the service, or alternatively, direct contact with senior country contacts and their local teams which have the capability to deliver seamless tax reporting services to the fund.

Assistance

If you would like to discuss any of the matters raised or would like to know more about the multijurisdictional tax reporting service we offer, please contact Billy McMahon or your usual Grant Thornton contact.

The funds industry in Ireland

Since the establishment of the funds industry in Ireland over 25 years ago Grant Thornton have helped investment managers from all over the globe to succeed in developing and expanding their international distribution footprint. Whether it's a full suite of locally domiciled solutions and services as a gateway for your funds to Europe and beyond, or if you need one or more of our globally recognised specialist skills – Grant Thornton Ireland can help.

Proven choice

Over 800 global managers already use Ireland and 21 of the top 25 global asset managers have Irish domiciled funds.

Breadth of capability

Our capabilities extend from traditional to alternative, passive to active and liquid to illiquid.

Global reach

The client bases we serve represent the full spectrum from retail to institutional and the services we provide impact upon investors that span 70 countries.

Deep industry know-how

Our global financial services practice provides an array of services to over 2,300 clients across the financial services industry, including more than 600 asset management clients. Our professionals are well-versed in the investment strategies of our clients.

We work with funds across different sizes from startups and emerging managers to the multibillion established funds, helping them navigate a variety of issues. You will have confidence working with people who know and understand your environment, and can offer an array of tax services based on present and future goals.

Global industry know-how

With global operations in all of the countries in which you do business, and specifically areas of focus such as Ireland, we will eliminate office, regional and country barriers that can hinder smooth and transparent service delivery to clients. Our experienced tax and financial services professionals are ready to begin work quickly where you need us and as your needs may expand.

Service excellence you deserve

With Grant Thornton, you are investing in a relationship – a long-term one that we look forward to building on together. You can expect clear, timely and focused communications throughout the year, not just at "crunch time." You will have access to your engagement team and other technical and industry specialists as you need them. We know of no better way to build the relationship than to listen and understand what is most important to you and how we can provide the best client service. You will realise our commitment through regular phone calls, face-to-face conversations and frequent discussions about issues affecting your industry, complementary service offerings and what it means to you and your business.

A greater return on investment

As one of the world's largest accounting firms, we provide industry-leading services and teams at a competitive fee relative to the value of our firm's practice and experience, without surprises.

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Ireland - ONESOURCE Workflow Manager for global fund distribution

ONESOURCE Workflow Manager (OWM) is a project management tool used to assist with the management of global investor tax reporting for collective investment schemes. The software has been designed by Thomson Reuters and has been specifically tailored to the requirements of Grant Thornton clients by collaboration between Thomson Reuters and Grant Thornton.

As funds continue to distribute globally, centralised compliance management becomes crucial and more frequently this is being outsourced by funds. This can include investor reporting regimes in the EMEA, APAC and the US. Grant Thornton Ireland has positioned itself to be a central point of contact for Irish domiciled and non domiciled funds whilst leveraging off our international network. ONESOURCE provides the tool to monitor the compliance deliverables against set and agreed timelines.

Grant Thornton Ireland currently manages a number of global investor reporting assignments which span over numerous jurisdictions. OWM has been instrumental in the efficient management of such engagements.

Key features of the system are the ability to:

- cover 180 jurisdictions;
- simplify and streamline processes;
- connect the client and Grant Thornton;
- assign responsibility to ensure a collaborative approach;
- monitor projects at each step to ensure timely project completion;
- flag late items and determine delinquent items;
- help the client stay compliant and avoid penalties;
- be a fully customisable system; and
- be a centralised storage facility.

What is the system used for?

The online system is typically used on global compliance and distribution engagements which are centrally controlled and managed in Ireland.

The current investor tax reporting available include:

- Austria;
- Belgium;
- Germany;
- Switzerland;
- United Kingdom; and
- United States.

We are constantly building new service workflows to add to the system to include the Common Reporting Standard (CRS) and Foreign Account Tax Compliance Act (FATCA).

Client benefits of using the system:

- improves client control of the project through on-demand status dashboard;
- ensures timely completion of projects through a tracking and reporting facility;
- provides a clear designation of tasks between client and Grant Thornton;
- comprehensive solution with advanced, flexible technology;
- single repository function with an extensive archive facility;
- standardised approach across a number of jurisdictions;
- environmentally friendly/paperless approach; and
- secure function which can be segregated by role/jurisdiction.

Implementation and setup of the system

So, how long does the system take to implement? Depending on the size of the project and the number of services and jurisdictions in scope,the implementation can take up to six weeks.

During this time, the implementation manager will visit the client site and plan out the key considerations of the system including drafting a detailed timeline with identified stakeholders. This will be done through meetings with seniors and key personnel and in conjunction with the overall compliance project plan.

The once-off setup fee will be discussed with the client at the proposal stage of the process and is based on the time taken to build the system. A certain number of user licenses are included in the initial setup fee with additional licenses available on request.

Austria

For Austrian tax purposes, Austrian taxpayers who hold units in an investment fund need to consider not only income distributed by the fund but also income accumulated by the fund.

For Austrian investment funds it is a requirement that the accumulated income of the fund, referred to as Deemed Distribution Income (DDI), is reported annually to Oesterreichische Kontrollbank (OeKB). For foreign investment funds, Austria has two categories of funds, white funds and black funds. White funds are those which choose to register with and report their DDI annually to OeKB, whilst in contrast, black funds are those which do not opt to report tax data to OeKB.

Benefits of entering the regime

- if the foreign fund chooses to register with OeKB and delivers tax data within seven months of the end of the financial year, it is listed as a 'reporting fund' ('meldefonds' = 'white fund'). The tax data which is reported to OeKB by the investment fund is publicly available at www.profitweb.at. Furthermore information on tax-exempt parts of distributions as well as foreign creditable withholding tax is available there;
- the taxation of Austrian investors in black funds can be disadvantageous for Austrian investors as they are generally subject to lump-sum taxation on DDI equal to either 90% of the increase in value of the overseas investment fund over the year or a minimum of 10% of the redemption price; and
- if an offshore fund is a white fund, Austrian taxpayers are taxed on the tax data disclosed rather than on the lump-sum taxation basis which applies for black funds.

Obligations under the regime

- if a foreign fund chooses to report tax data to OeKB (i.e. being a reporting fund/white fund), the reporting has to be filed with OeKB within seven months of the end of the fund's financial year. Moreover it is necessary to register with the Financial Market Authority (FMA) in Austria.

Key contacts

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Germany

Reform of the German Investor Tax Reporting Regime will come into effect on 1 January 2018.

In consideration of the Alternative Investment Fund Managers Directive (AIFMD) the German legislator reformed the taxation of investment asset pools. Now the German Investment Tax Act differentiates between investment funds on the one hand and investment companies (investment partnership or investment corporation) on the other hand. The investment funds are tax exempt for German tax purposes whereas the investment companies are treated like any other ordinary business undertaking from the German tax point of view. Each share-class of a fund is treated as a separate fund.

Concerning the classification as an investment fund the German law demands the compliance with specific investment requirements. These preconditions presume:

- the right to return shares at least once a year;
- the investment of minimum 90% of the total capital in specific assets;
- the principle of risk spreading; and
- the limitation of debt financing.

The investment vehicles, which correspond to the Undertakings for Collective Investment in Transferable Securities Directive (UCITS), will generally fulfill these requirements.

Due to the reform of the Investment Tax Act the law includes a grandfathering clause with regard to the qualification of an investment asset pool as investment fund till 31 December 2017.

Obligations under the German Investment Tax Act

- investment funds have to publish their basis of taxation within the German Federal Gazette (Bundesanzeiger) to guarantee the tax transparency. The disclosure includes all dividend distributions and accumulations and has to be certified by a German tax consultant or chartered accountant. Foreign investment funds must additionally publish the accumulated deemed distribution income. The disclosure has to be provided within four months after the end of the financial year.

Benefits of the publication

- if the investment fund does not disclose the basis of taxation within the German Federal Gazette the German investors will be burdened with a penalty tax. The German Investment Tax Act estimates a distribution of the fund in the amount of 70% of the difference between the first determined redemption price at the beginning of the calendar year and the last determined redemption price at the end of the calendar year. At least 6% of the last determined redemption price will be attributed to the investor.

Reform of the German Investment Tax Act

- at the end of July 2016 the German legislator has promulgated the reform of the German Investment Tax Act. The new law provides an additional taxation on the fund level concerning specific German income. The reform will come into effect on 1 January 2018.

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Italy

With effect from 1 July 2014, a new tax regime took effect in Italy on financial income, including interest and capital gains.

In particular the applicable tax rate has been raised from 20% to 26% and is levied on passive income and other financial income. This includes dividends earned from non-qualified investments, interest and other proceeds on current and deposit accounts as well as any income generated by bonds and promissory notes, accruing from 1 July 2014.

Benefits of entering the regime

- the new tax regime does not affect certain types of investment income, such as income from Italian government bonds, Italian public debt instruments and government bonds issued by countries that have agreed to exchange information with the Italian tax authorities or securities issued by other public bodies and other similar instruments (eg securities issued by supra-national organisations recognised by Italian law and non-Italian government bonds from 'white-list countries'). These types of income will generally continue, as before, to be subject to the current lower 12.5% tax rate.

Obligations under the regime

As a consequence of the two applicable rates, Italian and foreign funds making distributions to Italian investors are required to split the investment income as follows:

- the portion deemed to pertain to government bonds and assimilated securities, which will be subject to tax at 12.5%; and
- the portion deemed to pertain to other securities and shares which will be subject to tax at 26%

The determination of the two portions is based on an asset test which needs to be calculated by both Italian and foreign investment funds every six months.

Once the asset test is completed, information must be published in a new reporting list which specifies the fund and the percentage of the distribution related to investments associated with government bonds which are subject to the reduced rate of tax.

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Switzerland

Collective Investment Schemes (CISs) are subject to the Federal Law and the Ordinance regarding CISs, which came into force on 1 January 2007.

Benefits of entering the regime

- non-Swiss CISs which are registered with Swiss Financial Market Supervisory (FINMA) can be actively promoted and sold to investors in Switzerland.
  In order to register, a complete set of documentation needs to be filed with FINMA, eg fund contract, Articles of Association, investment guidelines and the prospectus as applicable. In general, the review process by FINMA takes one to two months once a complete set of documents are filed.

Obligations under the regime

- non-Swiss CISs must appoint a Swiss representative and fund agents (eg paying agent) as applicable; and
- for Swiss tax purposes, a non-Swiss CIS registered with FINMA, and whose share classes are sold in Switzerland, must be reported annually to the Swiss Federal Tax Administration (FTA) based on Swiss specific requirements. The tax values reported are listed in the tax value list (kursliste), which must be used by the Swiss resident individual investors for the purpose of filing their annual income tax return. Typically, the tax reporting of a CIS and its share classes should be done within six months of the end of its financial year.

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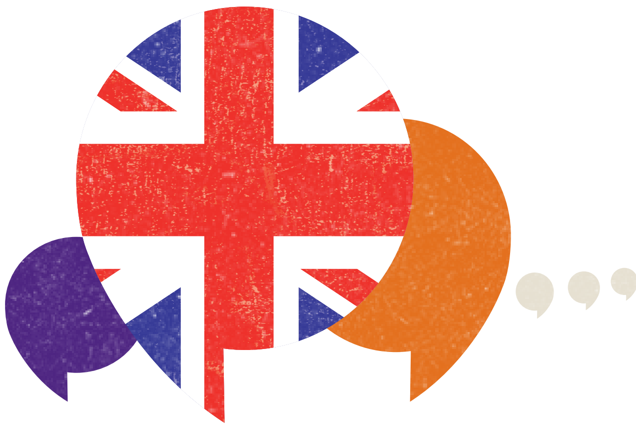
United Kingdom

The UK Reporting Fund (RF) regime came into effect on 1 December 2009, replacing the previous distributor status regime.

The purpose of the regime is to prevent the conversion of income into capital gains by rolling up income offshore in a low tax environment and then realising this in capital form.

Under the RF regime offshore funds are required to notify investors of income, as calculated under the regulations, for each accounting period. UK taxpaying investors must then report and pay tax on their share of this reported income. Actual distributions are not subject to further tax to the extent they do not exceed reported income allocations.



Benefits of entering the regime:

- if an offshore fund is not a reporting fund, a UK resident individual investor disposing of a holding in the fund will be subject to an 'offshore income gain' on disposal of the holding, resulting in the gain being taxed as income (up to 45%). In contrast, a gain on the disposal of an interest in a reporting fund will be taxed as a capital gain (28%/18%). For many UK corporate and other offshore reporting fund investors RF status is also beneficial.

Obligations under the regime:

- funds need to make an initial upfront application to join the RF regime, with the application generally needing to be submitted before the end of the period of account for which reporting fund status is required; and
- once admitted to the regime, the fund has to report certain information annually to its investors and to the UK tax authorities, within six months of the end of its financial year.

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United States

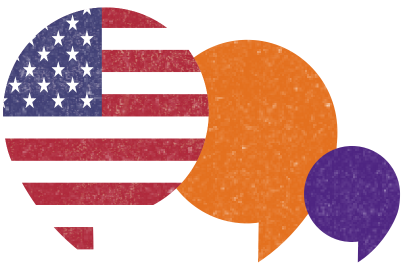
Non-US funds are generally organised as either corporations or partnerships under US tax principles.

Passive Foreign Investment Companies (PFICs)

A non-US investment fund organised as a corporation may be classified as a PFIC by the Internal Revenue Service (IRS).

Direct and indirect US shareholders of a PFIC are all subject to the PFIC rules and are taxed in one of four methods: Qualified Electing Fund (QEF), mark to market rules (if publically traded), excess distribution rules or sale of the PFIC.

Where available, the QEF election is almost always a favourable tax position to take from the perspective of US investors. The election allows a PFIC to be treated similar to a US based mutual fund for tax purposes.



However, the PFIC must then comply with the reporting requirements of the IRS and provide details of its income and capital gains each year. This is typically accomplished by calculating earnings and profits at the fund level based on US tax principles and reporting those results to US investors as either ordinary income or long-term capital gain on a Qualified Electing Fund statement (QEF).

US taxpayers with ownership in offshore corporations are subject to substantial reporting requirements with their US Federal tax return. Forms 926 (return by a US transferor of property to a foreign corporation) and Form 8621 (information return by a shareholder of a passive foreign investment company or qualified Electing Fund) are two forms that must be filed by a US investor in a PFIC to avoid substantial interest and penalties. The US investor should also ensure that the PFIC is FATCA compliant.

Partnerships

Because of its fiscal transparency, a non-US partnership structure may provide US investors with certain tax advantages and savings.

If the non-US partnership is not engaged in a US trade or business, and is not classified as a 'withholding foreign partnership', any US federal income tax liability of the non-US partners is generally satisfied by withholding at source.

Extensive information reporting of an investment in a non-US partnership is required by a US partner. Form 8865 (return of US persons with respect to certain foreign partnerships) or Form 8858 (information return of US persons with respect to foreign disregarded entities) will be required based upon the status of the partnership. It should also be noted that a non-US partnership may have a requirement to file a US partnership tax return on Form 1065.

Non-US partnerships are often set up as master funds with offshore feeder funds used for non-US partners or tax-exempt US partners.

Foreign Account Tax Compliance Act (FATCA)

In all situations, a non-US investment entity trading in the US capital markets should ensure its compliance with the FATCA rules.

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