WTS Global Financial Services Infoletter

Editorial

Tax developments affecting the international Financial Services industry

Dear Madam/Sir,

We hope you may find interesting the latest version of the WTS Global Financial Services Newsletter presenting taxation-related news from eight countries with a focus on the international Financial Services industry[1].

The following participants in the WTS Global network are contributing with a diverse range of FS tax topics, e.g. news on DAC8 & CARF and the automatic exchange of information related to crypto-assets in Denmark and Germany, the impact of recent amendments to the CIT Act on foreign investment funds in Poland and new opportunities for non-resident pension funds to recover WHT suffered in Portugal:

- Czech Republic – WTS Alfery
- Denmark – HortenDahl
- Germany – WTS Germany
- Italy – WTS R&A Studio Tributario
- Poland – WTS Saja
- Portugal – Vieira de Almeida & Associados
- Spain – ARCO Abogados y Asesores Tributarios
- United Kingdom – WTS Hansuke

Thank you very much for your interest.

Frankfurt, 20 January 2026

With best regards,

Robert Welzel
(Tel. +49 69 1338 456 80)

Steffen Gnutzmann
(Tel. +49 40 3208 666 13)

For details on WTS Global Financial Services please click here.

1 The editors would very much like to thank their WTS colleague Sergi Meseguer for his valuable support.

Contents

Czech Republic: Changes to the taxation of employee share and option plans (ESOPs) ... 3

Denmark: DAC8 & CARF – Automatic exchange of information related to crypto-assets ... 4

Germany: Investment funds – Asset management decisions by fund investors?; Crypto-Asset Tax Transparency Act (DAC8 Implementation) ... 6

Italy: Reform of the Italian Consolidated Law on Finance (TUF): the partnership company ... 10

Poland: Foreign investment funds – Impact of recent amendments to CIT Act; CIT on (incl. foreign) banks increases ... 11

Portugal: New opportunity for non-resident pension funds to recover WHT suffered in Portugal ... 14

Spain: Refund of WHT – Breach of the EU principle of free movement of capital in the dividend regime for non-residents with losses ... 15

United Kingdom: Strengthening tax transparency leadership at WTS Hansuke ... 16

Please find the complete list of contact details at the end of the newsletter.

Czech Republic

Changes to the taxation of employee share and option plans (ESOPs)

The taxation of ESOPs will change from January 2026. This revision should be interesting especially for international private equity fund managers (and their service providers) with participations in Start-Ups and SMEs in the Czech Republic.

Tax-smart equity: Qualified employee options come to Czechia

ESOPs are a standard way for companies worldwide to attract and retain key employees. In Czechia, however, the system has never really worked in the past — companies could grant options, but without any meaningful tax advantages. That situation will change in January 2026. A long-awaited reform will finally introduce qualified employee options with clear rules and significant tax benefits. ESOPs in Czechia will become practical, predictable, and competitive on a global scale.

Significant tax benefits

Income from a qualified ESOP program will be completely exempt from social security and health insurance contributions, for both the employee and the employer. This dramatically reduces the overall cost of the program and increases its attractiveness.

At the same time, taxation will not occur immediately upon the granting or exercising of options, but only when the employee sells the shares and receives the real financial gain ("no tax before cash" principle). If the employee does not sell the shares, taxation will occur after the maximum period established by law — up to 15 years from the acquisition of the shares or options.

Clear criteria for participation

The use of the new regime is subject to clearly defined criteria, and the promise of a qualified option must be reported to the tax authority.

The employee must have a contractually documented option, must have been employed for at least 12 months prior to its exercise, and the shares can be obtained no earlier than three years after the option is granted. A single employee may not acquire more than 5% of the company's share capital through the program, and their salary must exceed 1.2 times the minimum wage (approximately €1,100).

Companies must have annual revenues below CZK 2.5 billion (~€100 million) and assets below CZK 2 billion (~€80 million), and they cannot be regulated entities such as banks, insurance companies, or auditing firms.

Why this matters

With qualified employee options, companies finally gain a clear and predictable framework that defers taxation, eliminates sudden payroll burdens, and aligns equity incentives with international standards. For founders, this creates a genuine tool to attract, motivate, and retain key talent over the long term.

Jana Kotíková
jana.kotikova@alferypartner.com

If you wish to discuss these topics, please contact:
WTS Alfery s.r.o.

wts global

Denmark

HORTENDAHL

DAC8 & CARF – Automatic exchange of information related to crypto-assets

The EU's Directive on Administrative Cooperation (DAC8) and the OECD's Crypto-Asset Reporting Framework (CARF) form a coordinated, global response to ensure tax transparency, traceability and effective compliance in crypto-asset activities.

From 1 January 2026, Reporting Crypto-Asset Service Providers (RCASPs) will be required to conduct due diligence procedures on customers and collect information to be shared with tax authorities in their jurisdiction. The tax authorities will then exchange this information with tax authorities in other jurisdictions where the users are tax resident.

RCASPs with connections to EU jurisdictions are subject to reporting obligations under DAC8. For RCASPs connected only to non-EU jurisdictions, reporting obligations apply if the relevant jurisdiction has adopted CARF. EU rules intentionally align with CARF to minimise burden and maximise consistency.

Danish Implementation of DAC8 and CARF
Denmark is taking an ambitious approach by implementing both DAC8 and CARF. Both are expected to enter into force on 1 January 2026.

Denmark has set a national reporting deadline of 31 January following the calendar year, with first reports due 31 January 2027 for 2026 activity.

From a Danish perspective, it is not expected that many RCASPs will have a reporting obligation in Denmark. This is primarily because RCASPs, for regulatory and tax reasons, tend to establish themselves in other jurisdictions.

From a tax advisors´ perspective, the focus should instead be on the users of RCASP platforms, as these users will have detailed information about their crypto-asset transactions shared with the tax authorities in the jurisdiction(s) where they are tax resident.

Who is subject to registration and reporting obligations?
In the EU, RCASPs include both MiCA-authorised crypto-asset service providers and crypto-asset operators that are not authorised under MiCA, if they effectuate exchange transactions for or on behalf of reportable users.

RCASPs are subject to DAC8 obligations in an EU Member State if they are MiCA-authorised or notified there, or (if not MiCA-authorised) where they are tax resident, incorporated or organised and have legal personality or a tax filing obligation, are managed from, or have a regular place of business. They are also in scope in a Member State for transactions conducted through a branch located there.

Where an RCASP has nexus to multiple jurisdictions, DAC8 provides relief from duplicate reporting through a hierarchical framework. Importantly, if an RCASP reports equivalent information in a qualifying non-EU jurisdiction under an effective competent authority agreement, it need not report again to the EU Member State.

CARF similarly designates RCASPs and sets nexus criteria to ensure alignment between EU and global reporting frameworks.

What obligations do RCASPs have?

RCASPs face two primary obligations: due diligence and reporting.

Due diligence: RCASPs must obtain self-certifications at onboarding (and by 1 January 2027 for pre-existing users) to determine tax residence and confirm reasonableness against customer due diligence and anti-money laundering data. Self-certifications must include name, address, tax residence(s), tax identification number(s), and for individuals date of birth. For entity users, RCASPs must identify controlling persons, relying on AML data where consistent with Anti-Money Laundering Directive rules. If a user fails to provide required information after two reminders and at least 60 days, the RCASP must block the user from performing reportable transactions.

Reporting: RCASPs must annually report identification data for each reportable user: name, address, Member State(s) of residence, TIN(s), and for individuals date and place of birth. For entities with reportable controlling persons, the entity's details and each controlling person's identification must be reported.

Transaction data must be reported on an aggregated basis per type of reportable crypto-asset across categories: acquisitions and disposals versus fiat currency; acquisitions and disposals versus other crypto-assets; reportable retail payment transactions (exceeding USD 50,000); other transfers; and transfers to external addresses not known to be associated with virtual asset service providers or financial institutions. Fiat amounts are reported in the currency paid or received, and fair market value is reported in a single fiat currency with consistent valuation. First reports cover 2026 activity.

Sanctions for non-compliance: Penalties may apply where RCASPs fail to comply with due diligence and reporting obligations. RCASPs operating across multiple jurisdictions should be particularly aware that they may face sanctions in each territory where they fail to meet local implementation requirements.

However, it is important to note that some crypto platforms are so decentralized that there may ultimately be no physical person or legal entity to sanction. In such cases, the practical enforceability of DAC8 and CARF requirements become significantly limited, regardless of the severity of the prescribed penalties.

What should taxpayers be aware of regarding tax authorities' control of received data?

Taxpayers and their advisers should be aware of both the timing of information exchange under DAC8 and CARF, and the format in which data is shared.

Under both DAC8 and the CARF Multilateral Competent Authority Agreement, tax authorities exchange information within nine months after year-end (i.e., by 30 September 2027 for 2026 data).

Since the taxpayer's reporting deadline for taxable transactions for the previous income year will typically be before this exchange date determined by DAC8, DAC8 and CARF will primarily serve as control of the taxpayer, rather than an aid to report the correct taxable income.

Tax treatment of crypto-assets varies by jurisdiction. In Denmark, crypto-assets are generally taxed according to a realization principle, though inventory taxation applies to stablecoins.

RCASPs are obligated to share information in a specific data format. This aggregated reporting structure creates significant practical limitations for determining taxable income under the realization principle, as the data shared with tax authorities does not include individual transaction information.

Therefore, in practice, the information exchanged under DAC8 and CARF serves primarily as a control mechanism to verify that taxpayers have reported crypto-asset activity, rather than as a tool that enables tax authorities to directly calculate the correct taxable income under the realization principle.

Tax calculation methodology from a Danish perspective and third-party platforms
In Denmark, taxable gains are calculated based on an assessment of each individual transaction, specifically gain calculations of the difference between the acquisition cost and the disposal amount. While the disposal amount is relatively straightforward to determine, it is typically the acquisition cost that presents challenges.

Since most crypto-assets are fungible and individually unidentifiable, and actual acquisition costs cannot be determined unless holdings are segregated across separate wallets, Denmark applies the FIFO principle (first-in, first-out), whereby the earliest acquired crypto-asset of a given type is deemed disposed of first.

This methodology significantly complicates tax calculations, requiring extensive and sophisticated analyses in excel that are impractical to perform manually. Consequently, we typically utilize specialized third-party platforms such as Koinly.com, which can compute tax gains through CSV file uploads or direct API data extraction from trading platforms. These platforms automate the complex FIFO calculations and provide detailed transaction histories necessary for proper tax compliance. However, the Danish Tax Agency does not automatically accept reports from these platforms; therefore, such calculations should be regarded solely as supporting evidence to substantiate the correctness of a given tax calculation.

If you wish to discuss these topics, please contact:
HortenDahl

Nicolai B. Soerensen
nbs@hortendahl.dk

Kasper Degner Brøgger
kda@hortendahl.dk

Germany

Investment funds – Asset management decisions by fund investors?

A fund investor submits non-binding trade proposals that the asset manager of the fund often follows. In such case, Germany's Federal Fiscal Court (*BFH*) holds that a foreign investment fund does not fall outside of the scope of application of the (tax privileged) legacy Investment Tax Act (InvStG 2004). However, portfolio decision discretion must ultimately rest with the asset manager.

For international asset management companies in charge of single investor fund structures (e.g., Luxembourg FCP / SICAV), the recent decision reduces re-characterisation risk and provides some certainty on the German tax treatment of fund-level income.

Background

The case — BFH, order of 1 July 2025 (VIII R 18/22) — tests whether a collective investment vehicle remains an investment fund within the meaning of the rules of the legacy German Investment Tax Act (2004), usually quite tax beneficial for the fund investor, even where a unitholder submits investment suggestions that the asset manager often follows. The BFH frames the analysis around who holds genuine decision-making authority (the AIFM / manager), rather than imposing a blanket prohibition of any fund investor input regarding portfolio composition. Although the ruling concerns the year 2011, the underlying qualification concept broadly corresponds to today's German tax provisions.

Facts of the case

A German private investor held units in a Luxembourg FCP managed by a Luxembourg AIFM. Occasionally, the fund investor sent written investment suggestions to the asset manager, which were implemented. The tax authority argued that this fact pattern indicated investor-level "self-management" of the fund portfolio, meaning the FCP failed to qualify as an investment fund for German fund tax purposes. The tax authority sought to attribute the fund assets and income directly to the fund investor. The lower fiscal court of Cologne had rejected the tax authority position. The BFH confirms the view of the lower tax court.

The reasoning of the BFH

German fund regulatory rules mention collective investment (*"gemeinschaftliche Kapitalanlage"*) as a defining characteristic of the German concept of an investment fund but does not prescribe any detail for how insulated the asset management must be from investor input (e.g. via a threshold). German fund taxation rules refer to German fund regulatory rules, as far as the basic definition of an investment fund for tax purposes is concerned. The wording of both sets of rules, their systematic context and their legislative history do not contain an indication of a blanket prohibition of fund investor influence. For the period at hand (2011), the administrative guidance issued by the German fund regulatory authority (BaFin) likewise said nothing about (un-) acceptable investor influence.

When Germany introduced a special tax rule in 2008 to limit the use of so-called *"millionaire funds"*, the legislature implicitly accepted that single-investor vehicles with potential investor influence still sit within the fund tax regime – otherwise the 2008 anti-abuse rule would have been superfluous.

On the facts, the BFH emphasised that the AIFM (or its delegate) retained decision-making authority; the investor had no contractual rights or factual power to issue binding instructions. The fact that the manager often followed non-binding proposals is not the same as investor control.

Taxation stays at the fund level; the BFH confirms its prior judgement to reserve any look-through (tax transparency of the investment fund) under the specific beneficial ownership rule of § 39 (2) no. 1 AO to exceptional situations (BFH, VIII R 8/20, 24 October 2023). The BFH did not have to decide under which circumstances the line would be crossed, e.g., if an investor holds contractual binding rights or effective control over individual assets.

The German fund regulator (BaFin) is currently consulting with market participants on its further guidance on investor involvement in decision-making concerning the fund. WTS will keep you informed.

Crypto-Asset Tax Transparency Act (DAC8 Implementation)

This new development is of interest especially for international crypto-asset service providers covering the German market, i.e. either domiciled in Germany or conducting regular business in Germany.

We are providing an overview of the newly introduced German Crypto-Asset Tax Transparency Act (Krypto-Asset-Steuer-Transparenzgesetz – KStTG), which implements the EU Directive DAC8 into German law. In large parts the Act refers to the definitions laid down in DAC8 and, through this, to the OECD Crypto-Asset Reporting Framework (CARF).

Timeline and scope

- In force since: 1 January 2026
- First reporting period: calendar year 2026
- First reporting deadline to the Federal Central Tax Office (BZSt): 31 July 2027

The rules apply irrespective of the provider's place of establishment to all crypto-asset service providers offering services to EU customers. This includes in particular:

- Crypto trading platforms and exchanges
- Wallet providers
- Brokers and intermediaries
- Payment service providers
- Depositories and custodians

Core obligations under DAC8 / KStTG

a) Reporting obligations

- What: annual transmission of user and transaction data to the BZSt
- Who: all reportable crypto-asset service providers
- How: in a prescribed electronic format via a dedicated interface ("DIP"); a simple file upload is not available
- When: annually, by 31 July of the following year

b) Due diligence obligations

- Content:
  - Identification, verification and documentation of user identity and tax residence
  - Ongoing documentation of changes in user data without delay
- Who / When:
  - New users: due diligence before the first transaction
  - Existing users: data to be compliant by 1 January 2027

c) Registration obligation

- Registration with the BZSt is required
- Timing: before commencing reportable business activities
- Applies to all in-scope crypto-asset service providers

d) Cooperation obligation
- Users must be requested to cooperate in data collection
- If users fail to do so, providers may be required to restrict or block transactions

What is reportable?
The distinction between reportable and non-reportable transactions is not always clear, particularly for complex or innovative business models, such as:
- Custody services
- Staking
- Tokenization structures
- Hybrid or new service models

Given the DAC8 objective of broad tax transparency, a wide range of products and structures is likely to be covered, increasing the need for clarification through administrative practice and guidance.

Data transmission to the BZSt
All reporting must be carried out:
- Electronically,
- In a standardised data format and
- Via the dedicated DIP interface.

Providers therefore need to adapt their IT systems and processes and ensure high data quality and completeness.

Sanctions
Non-compliance can lead to substantial penalties:
- Late, incomplete or incorrect reporting can result in fines of up to EUR 50k per case,
- Early preparation is essential to minimise regulatory and reputational risk.

Recommended next steps for market participants
Crypto-asset service providers should:
- Assess whether and to what extent they fall within the scope of DAC8 / KStTG,
- Map customer and transaction data flows to identify who holds which reportable information,
- Review and update KYC / due diligence and onboarding processes,
- Plan and implement the necessary IT and reporting infrastructure for the DIP interface,
- Continuously monitor administrative guidance and further clarifications regarding DAC8 implementation.

Summary
In summary, DAC8 and the German KStTG introduce far-reaching transparency and reporting obligations for crypto market participants. Timely assessment and implementation of the required processes and systems is crucial.

If you wish to discuss these topics, please contact:
WTS Germany

Steffen Gnutzmann
steffen.gnutzmann@wts.de

Robert Welzel
robert.welzel@wts.de

David Roth
david.roth@wts.de

Italy

Reform of the Italian Consolidated Law on Finance (TUF): the partnership company

Focusing on the private equity and venture capital fund industry, the following overhaul of the Consolidated Law on Finance is intended to stimulate the growth of Italy's capital market, encourage innovation and economic development, and support the broader strengthening of the European capital market.

The draft version of a Legislative Decree implementing Article 19 of Law No. 21 of 5 March 2024, preliminarily approved by the Council of Ministers on 8 October 2025, introduces extensive amendments to Legislative Decree No. 58 of 24 February 1998 (the "TUF").

The Italian capital market has traditionally lagged behind those of many other advanced economies, including the more dynamic markets in the European Union, due to structural weaknesses in the economic environment and regulatory constraints. The draft seeks to broaden the range of capital support tools available to small and medium-sized enterprises, in part by lightening the compliance and regulatory burdens on supervised entities. It fits within the TUF's general objective of fostering public and private capital markets by promoting indirect private capital flows to companies and by making listing procedures easier, including when used for the exit of collective investment undertakings (OICRs). These measures are expected to help develop an ecosystem of operators that are more agile and flexible, capable of mobilizing larger resources – particularly from institutional investors—and progressively scaling up the overall system. The legislative choices are designed to bring the Italian framework closer to those of other major European jurisdictions.

One of the innovative aspects of the reform is the introduction of the "partnership company". This is a new corporate-type OICR, closed-ended and reserved for professional investors, which enlarges the spectrum of available investment options. Its distinctive feature is its legal configuration as a limited partnership with share capital, modelled on the internationally recognized Anglo-Saxon limited partnership, to make it easier for foreign investors to use and to enhance the appeal of the Italian market.

The partnership company may operate exclusively in private equity and venture capital, offering a more flexible and less onerous legal and administrative service model than existing vehicles, also thanks to broad statutory autonomy in financial matters. Where it directly manages its own assets, it will be subject to the regulatory regime applicable to authorized or registered managers, depending on the conditions it satisfies. Financial sector actors, including the Bank of Italy, view positively the creation of this new type of AIF especially in light of the removal of the simple investment companies (SIS), which experienced very limited market interest. The choice of a limited partnership with share capital also promotes greater clarity regarding the roles and prerogatives of partners, including in relations with supervisory authorities, which, when the partnership company manages assets internally and requires authorization, will assess the quality of governance, the management structure and the level of investor protection.

The reform provides significant statutory flexibility so that the capital structure can be shaped around the specific characteristics of the investment projects financed by the partnership company and the strategies pursued by each investor. In particular, the segregation of the assets of individual investment sub-funds, where they are set up, will ensure that resources raised for each sub-fund are devoted solely to the initiatives in which that sub-fund invests, while preserving the unity of the company and reinforcing the financial autonomy of the sub-funds. In addition, the articles of association may provide for forms of raising managed assets other than issuing shares and participatory financial instruments, allowing access for investors with particular requirements regarding the use of resources.

Overall, the reform package covers a wide array of areas, including corporate governance, rules on asset management, simplification of relations between authorities and the prohibition of interlocking positions. The underlying expectation is that these measures will support the development of the Italian financial market and improve its competitiveness and attractiveness at international level.

Marina Lombardo
marina.lombardo@ra-wts.it

If you wish to discuss these topics, please contact:
WTS R&A Studio Tributario

Poland

wts saja

Foreign investment funds – Impact of recent amendments to CIT Act

Asset managers of EU and third country investment funds with income from Poland that is subject to Polish WHT should take note of the following revisions, applicable from 1 January 2026. For UCITS (and comparable third country funds), the changes imply a step towards proceduralizing WHT exemptions / reclaims. For Alternative Investment Funds – AIFs (closed-ended funds and special open-ended funds), the changes can lead to more complex WHT reclaim procedures.

Regulations on the CIT exemption for foreign investment funds have been amended with effect as of 1 January 2026.

The major changes continue to involve:

1. extending the exemptions (both income-based and entity-based) onto funds from third countries,
2. varying the exemption conditions to take into account the existence of internally managed funds in other jurisdictions,
3. introducing another exemption condition allowing the exemption to be used by foreign investment funds from countries with respect to which there is a legal basis for the Polish tax administration to be able to obtain information about Polish residents' accounts with collective investment institutions,
4. extending the Polish anti-abuse regulations with respect to funds enjoying income-based exemptions (which effectively are all funds other than UCITS).

But the enacted version has some variations in points 2 and 3 above.

Re. 1
This change is made to comply with the guidelines contained in CJEU's judgment in case C-190/12 *Emerging Markets* and endorse the practice of Polish tax authorities and courts where exemption has been granted to third country funds comparable to domestic funds.

The changes will also apply with respect to entity-based exemptions for foreign pension funds.

Re. 2
This change comes in the wake of CJEU's judgment of 27 February 2025 in case C-18/23.

The original wording of one of the conditions had been that, to qualify for the exemption, a fund must be managed by an entity authorised by the relevant financial supervision authority of its home country. This allowed Polish tax authorities to deny exemption to internally managed funds.

In accordance with the final enacted wording, in the case of foreign funds the exemption will be available as follows:

- if the fund is managed by an entity specifically authorised as such by the relevant financial supervision authority of its home country, or
- in the case of an internally managed collective investment institution, the exemption will be available to the institution authorised as a collective investment institution or as a manager of such institutions by the relevant financial supervision authority of its home country.

Re. 3
When proposed, the draft originally mentioned only that use of the exemption requires the existence of a legal basis for automatic exchange of information between Poland and the country where the taxpayer has its seat or management so that the head of Polish National Revenue Administration could obtain information on accounts held with collective investment institutions by individuals or entities with full tax liability in Poland.

This condition has been rephrased so that, as per the enacted version, the exemption applies to collective investment institutions with respect to which there is a legal basis for the relevant authority in Poland to use automatic exchange to obtain information on accounts held with those institutions, if the disclosure comprises the information set out in Article 34(1)(1) to 34(1)(3) of the Exchange of Tax Information with Other Countries Act of 9 March 2017 ("Reporting Law"), subject to Article 34(2) of that act.

Under Article 34(1)(1) to 34(1)(3) of the Reporting Law, the following information must be disclosed about reportable accounts:

1) the name, address, jurisdiction of residence, TIN and date and place of birth (in the case of an individual) of each reportable person that is an account holder of the account and, in the case of an entity that is an account holder identified as being controlled by at least one controlling person that is a reportable person, the name, address, jurisdiction of residence, TIN of such entity and the name, address, jurisdiction of residence, TIN and date and place of birth of each such controlling person;
2) the account number or its functional equivalent in the absence of an account number;
3) the name, address and TIN (if any) of the reporting financial institution.

Article 34(2) of the Reporting Law lays down some exceptions to what information qualifies as reportable.

Re. 4
This is a proposal to extend the Targeted Anti-Abuse Rule, or TAAR, in Article 22c of the CIT Act. Previously TAAR was used to deny preferences in cases indicating abuse of PS or IR Directive exemptions. Now TAAR is proposed to be used for income-based exemptions which are generally designed for foreign investment funds other than UCITS (closed-ended funds and special open-ended funds operating in accordance with rules and restrictions applicable to close-ended funds).

In accordance with TAAR, income-based exemptions cannot be used if their use is:

1) contrary, in the circumstances, to the object or purpose of the regulations, and
2) the principal purpose or one of the principal purposes of the transaction(s) or some other operation(s), and the arrangement is artificial.

By Article 22c(2) of the CIT Act, an arrangement is not artificial (is genuine) if it is appropriate to conclude in the circumstances that a person acting reasonably and for lawful purposes would apply this arrangement largely for valid commercial reasons. The reasons referred to in the first sentence do not include the intended use of an exemption that is contrary to the object or purpose of its underlying regulations.

It is currently difficult to predict how tax authorities will practically assess on a case-by-case basis whether TAAR applies in the case of any income-based exemption for foreign investment funds.

CIT on (incl. foreign) banks increases

On 27 November 2025 the Polish President signed a law to amend the CIT Act and the Act on the Taxation of Certain Financial Institutions. The amendments increase fiscal burdens for only one industry, which puts their constitutionality in question. The new law applies to domestic banks, foreign banks, credit institutions, cooperative banks and so-called SKOK (Spółdzielcza Kasa Oszczędnościowo-Kredytowa, the Polish version of a savings and loans association or a credit union).

The CIT on banks will increase from 19% to 23%, except that for 2026 it will basically go up to 30% and will be 26% in 2027 (assuming the bank's tax year coincides with calendar year). Lower rates are imposed on cooperative banks and SKOK.

The new law also offers a reduction in the tax on certain financial institutions, or the so-called banking tax. The rate, which is now 0.0366%, will go down to 0,0329%, decreasing further to 0,0293% as of 2028. This reduction concerns only domestic banks, branches of foreign banks, credit institutions and SKOK (and does not apply to such institutions, as insurance or reinsurance undertakings).

The changes to corporate income tax on banks are scheduled to take effect as of 1 January 2026, while those affecting the banking tax will enter into force as of 1 January 2027.

Magdalena Kostowska
magdalena.kostowska@wtssaja.pl

If you wish to discuss these topics, please contact:
Doradztwo Podatkowe WTS&SAJA Sp. z o.o.

wts global

Portugal

VIEIRA DE ALMEIDA

New opportunity for non-resident pension funds to recover WHT suffered in Portugal

Recent developments open a clear path for non resident pension funds to recover withholding tax (WHT) on Portuguese-sourced dividends and other income. Building on a landmark ruling of the European Court of Justice, non resident funds should reassess both historic WHT suffered and the evidentiary approach used for obtaining an upfront exemption or refund in Portugal (ECJ, case C-525/24 of 27 November 2025).

Current Portuguese framework

Under the current national law, foreign pension funds may benefit from a corporate income tax (and, thus: WHT) exemption, provided that:

(i) The foreign pension fund exclusively ensures the payment of retirement pensions granted for for old age, disability, survivors' pensions, pre retirement, health and post employment benefits, and death benefits;
(ii) It is managed by an entity covered by Directive 2003/41/EC of 3 June 2003;
(iii) The pension fund is the effective beneficiary of the income;
(iv) In case of dividends, the shareholding is held for more than one year; and
(v) The paying entity is provided with a statement issued by the entity responsible for the supervision of the fund, attesting the fulfilment of the requirements set out under Portuguese law.

By contrast, pension funds that are established and operate in accordance with Portuguese law are exempt from corporate income tax without needing to demonstrate fulfilment of any further condition.

The ECJ judgment

In light of this differential treatment in Portugal, a Spanish pension fund challenged the admissibility of imposing all of the above requirements, while not requiring equivalent proof from Portuguese pension funds. This litigation was initially filed in front of the Portuguese Tax Arbitration Court, which referred questions to the ECJ on whether the distinction breached the free movement of capital and was therefore incompatible with EU law.

The ECJ confirmed, in case C-525/24 of 27 November 2025, that imposing additional administrative burdens on non resident pension funds constitutes a restriction on the free movement of capital unless justified and proportionate. Differences in treatment require either non comparability or an overriding reason in the public interest. Where a Member State taxes both residents and non residents on inbound dividends and grants the same substantive exemption, resident and non resident funds are objectively comparable for evidentiary purposes. Ensuring effective tax control can be a valid justification, but proof conditions must not make it impossible or excessively difficult to benefit from the exemption.

Key takeaways from the ECJ decision

1) **Upfront exemption:** For an exemption upfront, the fund may be required to provide evidence that it complies with the substantive conditions via a declaration confirmed by the competent supervisory authority, under the conditions that:

- The supervisory authority has the necessary powers to issue such declaration;
- The declaration can be obtained within a reasonable timeframe: and
- There is no less restrictive but equally effective method for providing such proof.

2) **Refund of tax withheld:** When requesting a refund of tax withheld, the Portuguese Tax Authorities (PTA) cannot require this declaration as the sole means of proof. In other words, the PTA must accept alternative forms of evidence.

Practical implications

Following the recent ECJ ruling (in which the applicant was supported by Vieira de Almeida), foreign pension funds that have been subject to WHT on Portuguese sourced income may claim refunds even if they cannot obtain a statement from their supervisory entity attesting the fulfilment of Portuguese law requirements. This refund can be requested through a formal appeal submitted to the PTA within a two-year deadline. Alternatively, Portuguese law also provides a special mechanism that allows a refund to be requested within a four-year deadline.

As the ECJ based its reasoning on the free movement of capital, the WHT recovery should also be possible to third countries pension funds.

If you wish to discuss these topics, please contact:
Vieira de Almeida (VdA)

Tiago Marreiros Moreira
tm@vda.pt

Rita Pereira de Abreu
rma@vda.pt

Spain

ARCO
ABOGADOS Y ASESORES TRIBUTARIOS

Refund of WHT – Breach of the EU principle of free movement of capital in the dividend regime for non-residents with losses

A new tax-legal development in Spain aligns with the CJEU doctrine regarding the definitive taxation of dividends paid to non-resident companies, paving the way for a refund of Spanish WHT in case of losses. The recent judgment and subsequent administrative resolutions reinforce EU principles, ensuring equal treatment for non-residents and opening significant opportunities for WHT refund claims in Spain, in case of portfolio holdings as well as substantial participations in Spanish dividend paying entities.

The case of Spanish National High Court (Audiencia Nacional), judgment of 28 July 2025 (Appeal No. 2486/2021) arose from the Non-Resident Income Tax (IRNR) rules, which prevent non-resident entities from recovering withholding tax on dividends when they close the fiscal year with losses. Resident companies, under Corporate Income Tax, can offset such withholdings, creating unequal treatment. The Court holds that this regime infringes Article 63 TFEU, which guarantees the free movement of capital, as Spanish law lacks an equivalent mechanism for non-residents.

The appellant, a UK-based company, challenged the lower Spanish court ("TEAC") decision of 22 July 2021, which denies its refund request. The TEAC argued that withholding tax was definitive for non-residents. However, the National High Court overturned this judgement, recalling that CJEU case law has direct effect in Spain (Article 4 bis Judiciary Act). It cited Case C-601/23, where the CJEU declared similar Basque legislation contrary to EU law for denying a refund to a non-resident in a loss-making situation.

The Court reasons that when the source State taxes only positive income (dividends), the overall negative result in the residence State must be considered. Consequently, the TEAC, in Resolution 00384/2022 of 20 October 2025, changed its previous stance: non-resident entities may claim a refund of Spanish WHT if they cannot offset the WHT in their residence State due to insufficient tax liability caused by losses. The TEAC extends this doctrine to other scenarios, including royalties and tax groups with consolidated losses, broadening its practical impact.

This resolution, binding on the Tax Administration, marks a turning point in IRNR application. Non-resident entities that bore WHT in Spain and can prove losses in the relevant fiscal year may now request refunds, including late-payment interest, through the undue payment recovery procedure.

If you wish to discuss these topics, please contact:
ARCO Abogados y Asesores Tributarios

Marina Esquerrà
marinaesquerra@arcoabogados.es

Joan Mestre
joanmestre@arcoabogados.es

United Kingdom

Strengthening tax transparency leadership at WTS Hansuke

WTS Hansuke is pleased to welcome Ms. Neiha Perera, former Head of AEoI at EY, as a Financial Services Tax Partner, bringing senior leadership experience to the London firm's international financial services and tax transparency practice.

Neiha joins WTS Hansuke with extensive international experience advising financial institutions on global tax transparency and reporting regimes, including the Foreign Account Tax Compliance Act ("FATCA") and the Common Reporting Standard ("CRS"). She has worked with banks, asset managers, and other regulated entities across the UK, the US, Europe, Asia-Pacific, and the Middle East, supporting them as transparency obligations evolve and regulatory scrutiny intensifies.

As FATCA and CRS have matured, institutions are increasingly expected to demonstrate not only compliance, but consistency, data quality, and effective governance. Neiha has supported clients through this transition, helping them respond to regulatory change and ongoing supervisory attention in a pragmatic and sustainable way.

Supporting clients through CRS 2.0
The introduction of CRS 2.0 marks the next stage in the evolution of the CRS framework, with enhanced reporting requirements and clarifications designed to strengthen information exchange. Many jurisdictions have implemented these changes, with an effective date of 1 January 2026 and with first exchanges expected in 2027, depending on local timelines.

Neiha has worked with institutions preparing for this next phase of CRS, supporting impact assessments and helping clients understand how enhanced requirements translate into practical changes for their reporting frameworks. Her wealth of experience enables institutions to approach CRS 2.0 in a measured way, building on existing processes while responding effectively to increased expectations from tax authorities.

Preparing for CARF

The Crypto-Asset Reporting Framework ("CARF") represents a significant expansion of global tax transparency, extending reporting obligations into the crypto-asset space. With implementation expected from 1 January 2026 and first exchanges anticipated in 2027, many institutions are already considering the implications for their existing compliance frameworks.

Neiha's experience advising on global transparency regimes positions her well to support clients as they begin to plan for CARF. She brings a clear understanding of how new regimes can be integrated with established FATCA and CRS processes, helping institutions take early, proportionate steps while managing uncertainty as the framework is adopted across jurisdictions.

Neiha's arrival marks an important step in the continued evolution of WTS Hansuke's financial services practice, positioning the firm under her impactful leadership to support clients with clarity and confidence as the tax transparency landscape continues to develop.

If you wish to discuss these topics, please contact:
WTS Hansuke

Neiha Perera
neihaperera@wtshansuke.co.uk

Ali Kazimi
alikazimi@wtshansuke.co.uk

Contact

Czech Republic
Jana Kotíková
jana.kotikova@alferypartner.com
T +420 603399502
WTS Alfery s.r.o.
Václavské náměstí 40
141 00 Prague
https://alferypartner.com/en

Denmark
Nicolai Sørensen
nbs@hortendahl.dk
Kasper Degner Brøgger
kda@hortendahl.dk
T +45 30569123
HortenDahl
Hammerensgade 6
1267 Copenhagen
https://www.dahllaw.dk/en/about-dahl/dahl-law-firm

Germany
Steffen Gnutzmann
steffen.gnutzmann@wts.de
T +49 40 3208 666 13
Robert Welzel
robert.welzel@wts.de
T +49 69 133845680
David Roth
david.roth@wts.de
WTS Germany
Brüsseler Straße 1–3
60327 Frankfurt am Main
https://wts.com/de-de/services/tax/financial-services-tax

Italy
Marina Lombardo
marina.lombardo@ra-wts.it
T +39 02 36751145
WTS R&A Studio Tributario
Piazza Sant'Angelo 1
20121 Milan
https://www.ra-wts.it

Poland
Magdalena Kostowska
magdalena.kostowska@wtssaja.pl
T +48 661 770 702
Doradztwo Podatkowe WTS&SAJA Sp. z o.o.
Bałtyk Building, 13th floor
ul. Roosevelta 22
60-829 Poznań
https://wtssaja.pl

Portugal
Tiago Marreiros Moreira
tm@vda.pt
Rita Pereira de Abreu
rma@vda.pt
T +351 213 113 485
Vieira de Almeida (VdA)
Rua D. Luis I, 28
1200-151 Lisbon
www.vda.pt

Spain
Marina Esquerrà
marinaesquerra@arcoabogados.es
Joan Mestre
joanmestre@arcoabogados.es
T +34 934 871 020
ARCO Abogados y Asesores Tributarios
Calle Beethoven 15, 5ª planta
08021 Barcelona
www.arcoabogados.es

United Kingdom
Neiha Perera
neihaperera@wtshansuke.co.uk
T +44 7870355853
Ali Kazimi
alikazimi@wtshansuke.co.uk
T +44 7818522779
WTS Hansuke
One Canada Square, Canary Wharf
London, E14 5AB
https://wtshansuke.co.uk

About WTS Global

With a representation in over 100 countries, WTS Global is one of the leading global tax practices offering the full range of tax services without the constraints of a global audit firm. WTS Global deliberately refrains from conducting annual audits in order to avoid any conflicts of interest and to be the long-term trusted advisor for its international clients.

Clients of WTS Global include multinational groups, international mid-size companies as well as private clients and family offices.

The member firms of WTS Global are strong players in their home market united by the ambition of building the tax firm of the future. WTS Global effectively combines senior tax expertise from different cultures and backgrounds whether in-house, advisory, regulatory or digital.

For more information, please visit **wts.com**

Imprint
WTS Global
P.O. Box 19201 | 3001 BE Rotterdam
Netherlands
T +31 (10) 217 91 71 | F +31 (10) 217 91 70
wts.com | info@wts.de

Publisher
WTS GmbH
Frankfurt Office
Brüsseler Straße 1 – 3
60327 Frankfurt/Main
Germany

- Robert.Welzel@wts.de T +49 69 1338 45680
- Steffen.Gnutzmann@wts.de T +49 40 3208 66613
- Christiane.Schoenbach@wts.de T +49 69 1338 45670
- Katrin.Classen@wts.de T +49 69 1338 45672
- Christian.Bischler@wts.de T +49 69 1338 45620
- Guido.Dahm@wts.de T +49 69 1338 45610
- Stefan.Zwiesele@wts.de T +49 69 1338 45630