

**To the members of the SFAMA**



Basel, 29 August 2013  
member/circular SHE

**No. 23/2013**

**Swiss Federal Tax Administration – changes in practice**

- **Target funds – de minimis rule for tax reporting**
- **Swiss accumulation funds – due date for withholding tax**

Dear Sir/Madam

The SFAMA has worked together with the Swiss Federal Tax Administration (FTA) on the above changes in practice. We are pleased to inform you about the simplifications that will result from these changes.

**Target funds – de minimis rule for tax reporting**

**Background**

Depending on the category, investments in other collective investment schemes can result in different levels of income (tax-transparent collective investment schemes with distribution, with reinvestment).

From the tax perspective, transparency must be ensured at all levels. All income generated by target funds, and stated or calculated for Swiss and foreign collective investments schemes, is to be booked in full as taxable income at the level of the fund-of-funds. For this purpose, the fund of funds draws up an aggregated account each year, reflecting the proportionate investments in target funds.

**The issue**

With the exception of pure fund-of-fund structures, some funds invest only “occasionally” and “on a free-float basis” in target funds. The investments in target funds are therefore not significant, in terms of either their number or their percentage of the total fund assets. Based on the relevant provisions of FTA Circulars 24 and 25, such target funds are also to be covered in full via the fund-of-funds reporting.

In the interests of keeping administration in proportion to the size of such holdings, the following de minimis rule has been established as an option for the aggregation of target fund income:

## De minimis rule for target funds

If, overall, a collective investment scheme invests less than 10% of its total assets in target funds, then in the case of target funds that each account for less than 3% of the total fund assets, the following may be aggregated as taxable income in the fund of funds instead of the traditional reporting:

- Distribution target funds: all accrued distributions during the past financial year of the fund of funds
- Accumulation target funds: the positive difference in the net asset value in the past financial year; negative differences will not be taken into account.

If such target funds have taxable values stated in the FTA's official list of securities (Kursliste), these are to be aggregated.

The decision to apply the de minimis rule per target fund must be adhered to for five years. Once this period expires, it will automatically be extended for a further five years barring any written notification to the contrary from the fund management company to the FTA. Fund management companies are not permitted to change the system during the five-year period. The FTA is to be sent separate notification, when tax data are submitted, of the target funds for which the de minimis rule has been chosen.

Determining taxable income in the case of target funds		
Individual weighting as % of the total fund assets	Overall weighting as % of the total fund assets	
	≥ 10 %	< 10 %
≥ 3 %	Model reporting	Model reporting
< 3 %	Model reporting	At the discretion of the fund management company or SICAV a) Model reporting or b) Simplified method: <ul style="list-style-type: none"> <li>• Distribution target funds<sup>*)</sup>: distributions</li> <li>• Accumulation target funds: positive NAV difference</li> </ul> <small>*) payout ratio of at least 70%, otherwise the positive NAV difference must also be added</small>

The FTA reserves the right to examine the income structure of the target funds. The corresponding documents, such as fund regulations or prospectuses and annual reports, are to be made available upon request for this purpose.

## Entry into force

This de minimis rule for calculating taxable income may be used for the first time for financial years ending on 30 September 2013.

## Swiss accumulation funds – due date for withholding tax

### Background

Art. 12.1<sup>ter</sup> of the Swiss Withholding Tax Act (VStG) stipulates the annual due date for withholding tax (anticipatory tax) in the case of accumulation funds. Accordingly, the tax liability arises at the time the taxable income is credited, as defined in Art. 4.1c VStG.

Circulars 24 and 25 define the “time the taxable income is credited” as the end of the financial year (Circ. 24 / section 2.1.5.4 / para. 1 and Circ. 25 / section 4.1.1 / para. 2).

### The issue

In view of the deduction of the withholding tax, i.e. the (“mandatory”) distribution of the withholding tax base, a Swiss accumulation fund tends to have more of the fundamental characteristics of a distribution fund than of a foreign accumulation fund.

For administrative and liability reasons in the Swiss accumulation fund industry, the deadlines (modus operandi) are now to be brought in line with distribution funds, i.e. the withholding taxes are:

- *owed* for the past financial year
- *due* within 4 months of the financial year-end (period for drawing up financial statements, auditing, reporting) when income is transferred to the account for income retained for reinvestment (point of reinvestment = due date)
- *payable* within 30 days of the due date, at the latest five months after the financial year-end

### Change to the time the liability arises and the due date for withholding tax

According to Article 12.1<sup>ter</sup> VStG, in the case of contractual investment funds, SICAVs and limited partnerships which reinvest income, the tax liability arises at the moment the taxable income **as at the financial year-end (basis of assessment) is credited (i.e. when it is transferred to the account for income retained for reinvestment, at the latest four months after the financial year-end)**, or, in the case of a liquidation, when the remaining liquidation proceeds are distributed.

According to Article 20.1e of the Federal Direct Tax Act (DBG), investors must pay tax on the credited investment income in full corresponding to their proportionate investment (with the exception of capital gains, which are reported separately, and income which has already been taxed). **In the case of Swiss collective investment schemes, the income is to be allocated to the tax year in which withholding tax was deducted.** Based on Art. 21 et seq. VStG, **investors** have the right to reclaim the withholding tax deducted by the accumulation collective investment schemes.

**NB: There is no change in the case of foreign collective investment schemes, where the income is deemed to have accrued at the financial year-end and is to be allocated to the corresponding tax year.**

### **Entry into force**

This change in practice in respect of the due date of withholding tax will apply for the first time to financial years ending 31 December 2013.

### **Amendment of FTA Circulars**

The amendments to Circulars 24 and 25 necessitated by the above changes in practice will be carried out as part of a upcoming revision.

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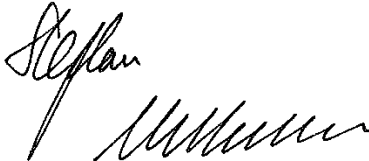
We would ask you to note the above information, and remain

sincerely yours

### **Swiss Funds & Asset Management Association SFAMA**



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