

MEMO# 31327

August 15, 2018

Survey Regarding Efforts to Recover Tax Based Upon Article 63 of EU Treaty ("EU Reclaims")

[31327]

August 15, 2018 TO: Tax Committee RE: Survey Regarding Efforts to Recover Tax Based Upon Article 63 of EU Treaty ("EU Reclaims")

This survey requests information about individual members' efforts to recover taxes withheld by various European countries based upon the free movement of capital article (Article 63) of the Treaty on the Functioning of the European Union (EU). The survey does *not* request information regarding taxes withheld for which recovery is based upon income tax treaties between the United States and foreign countries.

The ICI requests that survey information be provided by each member firm on a complex-wide (aggregated) basis for each European country for which claims have been filed. The actual amount of the claim should be provided in euros or other local currency, as applicable.

All firm-specific information will remain confidential. The ICI will use only industry-wide (aggregated) data in our discussions with policymakers and others as we support your efforts to recover these taxes.

Each ICI member firm is requested to provide data for three fact patterns involving withheld taxes for which claims have been filed. Specifically, the data requested involve withheld taxes:

- for which claims were filed but no longer are being pursued despite nothing being recovered ("abandoned claims");
- for which claims have been filed and remain outstanding ("pending claims"); and
- that have been recovered ("successful claims");

The survey does not seek information for taxes withheld for which claims under Article 63 have not been filed.

The survey requests the following specific information for each category of claim (by country) to be provided on the attached excel spreadsheet:

Abandoned claims

1. Years covered
2. Amount of abandoned claims

Pending claims

1. Years covered
2. Amount of pending claims

Successful claims

1. Years covered
2. Amount of recoveries
3. Amount of claims for which recoveries received (if less than 100% of claim recovered)
4. Interest received (if any)

The attached excel spreadsheet should also be used to provide four additional pieces of information to be included on the last worksheet – “Total Claims.” Specifically,

1. Provide which countries you file in and for each country what years you have submitted claims.
2. What are the combined assets under management (AUM), as of January 1, 2018, for all funds for which data is provided for any of the above three claim categories?
3. Approximately how much money has been spent, to date, on third-parties (e.g., foreign consultants and attorneys) assisting in your recovery effort?
4. Approximately what percentage of the shares, as of January 1, 2018, for the funds included in the answer to question 2 were held in CURRENTLY-TAXABLE accounts? In answering this last question, please disregard all retirement (IRA and defined contribution) accounts, education savings (529 plan) accounts, accounts held by tax-exempt entities such as charities, and any other tax-deferred/tax-exempt accounts.

Please complete the attached spreadsheet and e-mail your survey results to Katie Sunderland at katie.sunderland@ici.org **no later than September 12, 2018**. Any questions regarding the survey or the EU reclaim issue may be directed to Katie (at 202-326-5826) or to Keith Lawson at lawson@ici.org or 202-326-5832.

Katie Sunderland
Counsel - Tax Law

[Attachment \(in .xls format\)](#)

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