

JUNE 2008

14th ISSA Symposium
Focus Session: Tax Issues

Update on G30 ISSA Tax Model / OECD Project
Chris Gilbert

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Why is a Standardised/Streamlined Tax Relief Model Needed?

- Tax relief systems in many source countries have failed to keep pace with the growing level of intermediation and with the increased volume of cross border investment
- There is a proliferation of different tax relief systems / tax documentation requirements around the world, and sometimes within the same source country!
- It is practically impossible to secure tax relief in certain countries due to impediments such as:
 - Excessive documentation requirements
 - Unreasonable lead times for providing information / documentation
 - Imposition of local advisors
 - Inordinate tax refund delays
- In consequence, the administrative/system resources required to secure relief for eligible investors are substantially inflated; eligible investors are often denied treaty relief or suffer disproportionate costs in securing that relief

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Benefits of a Standardised/Streamlined Tax Relief Model

- These include:
 - For financial intermediaries, substantial reduction in current administrative costs, simplification of process and elimination of exception processing/risk
 - For investors, enhanced tax relief opportunities (scope and timing), greater certainty of entitlement and reduction in current administrative costs
 - For Government, reduction in current administrative costs of providing tax relief and handling competent authority cases (in relation to residents and non-residents)
 - For all, greater attractiveness of cross-border investment and improved capital market efficiency

Background to Development of ISSA Model

- The Group of Thirty (G30) issued its report “Global Clearing and Settlement - A Plan of Action” in January 2003
- Recommendation 8 considered, *inter alia*, the need to automate and standardise tax relief arrangements for cross border investors:
 - “ **Market participants and public authorities should work together to minimize the administrative costs to each party involved in tax relief arrangements through standardization and automation of procedures and communication of information and through the use and acceptance of electronic data and documentation**”
- During the course of 2004, a putative tax relief model was developed with the aim of converting this high level G30 aspiration into a practical working reality.
- The tax relief model was posted to the ISSA website in February 2005, where it has attracted a generally favourable reaction

ISSA Model Concepts

- Designed to fully satisfy G30 criteria by:
 - Standardising tax relief arrangements
 - Providing platform enabling automation of associated procedures and electronic communication of associated data
 - Providing opportunity to minimise associated costs
- Builds on existing technology and best practices

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Key ISSA Model Features - Information Delivery

- Investor completes a single declaration covering all source countries, confirming (i) identity, (ii) residence, (iii) generic category and (iv) eligibility for tax relief
 - Some commentators have suggested that other information held on file (e.g. KYC) may be used in lieu of securing investor declaration
- The information provided by the investor remains with the intermediary acting directly for the investor
- If the intermediary acting for the investor does not have withholding responsibility, pooled tax rate information (rather than investor-specific information) is passed up the intermediary chain to the withholding agent by means of:
 - separate tax rate pools (relevant tax rate information provided at the point of security acquisition - see Flowchart 1); or
 - single pool (relevant tax rate information provided at the point of each income entitlement - see Flowchart 2)

established with each upper tier intermediary or the withholding agent
(Intermediaries may thus operate an optimal “omnibus” account structure)

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Key ISSA Model Features - Tax Deduction/Relief

- The withholding agent applies appropriate reduced tax rates **AT SOURCE**, based on:
 - Declaration received from direct investor
 - Tax rate information received from intermediary
- Tax deduction responsibility is unaltered under the model, however some commentators have suggested that there should be an option for lower tier intermediaries to elect for withholding responsibility in lieu of passing tax rate information up the intermediary chain

(Flowchart 3 illustrates information delivery and income flow under model)

Key ISSA Model Features - Intermediary Authorisation

- Only authorised intermediaries may benefit from the simplified arrangements set out in the model
- Authorisation is based on standard criteria, to assure consistency and a level playing field
- Model envisages that intermediary is authorised by the taxing authority in the country of operation

Key ISSA Model Features - Intermediary Compliance Verification

- Model envisages that authorised intermediaries are subject to periodic review by the taxing authority in the country of operation
- Review primarily system based, but more granular information may be provided if necessary (to demonstrate that, where appropriate, the intermediary secures proper investor declarations, secures/passes accurate pooled tax rate information and applies correct withholding)
- Some commentators have suggested that intermediaries may optionally elect for review to be performed by external auditor
- A number of commentators have emphasised that the intermediary should not be penalised for acting in “good faith”

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Subsequent Developments

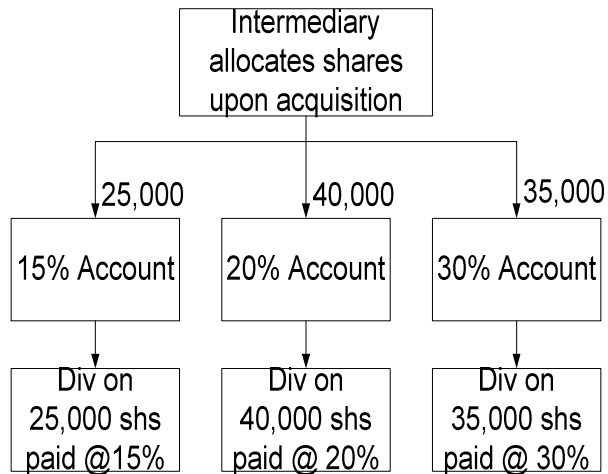
- The model has been presented to various interested parties, including the OECD and EU Commission (FISCO group examining fiscal compliance barriers)
- The model has had a substantial influence on the conclusions announced by the FISCO group in 2007
- In 2006, the OECD established an Informal Consultative Group (ICG) of Government and industry representatives to examine the issues of treaty relief for collective investment vehicles and the general administrative arrangements for providing treaty relief to cross border investors

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Flowchart 1 - Separate Tax Rate Pools

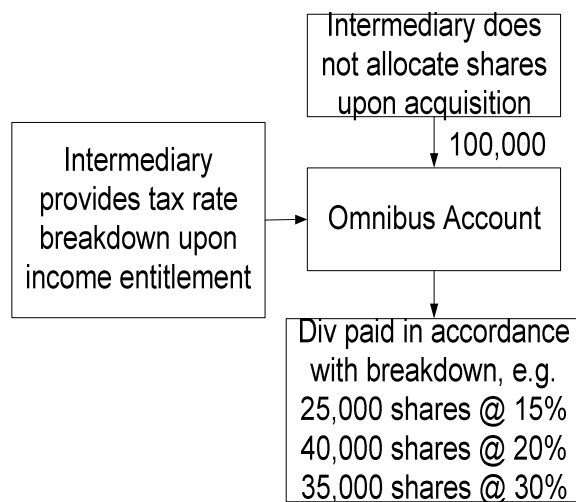


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Flowchart 2 - Single Pool



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