

Register of Authorised Intermediaries and digitalisation of tax-at-source applications, webinar 13 May 2020

Questions and answers

Questions on practical matters

1. Will the slides be made available?

The slides have been published on our website: <https://www.vero.fi/en/About-us/news-room/events-and-webinars/links-to-previous-webinars/>

2. Is there a replay of this webinar?

A recording of the webinar is available on the Finnish Tax Administration's YouTube channel: https://www.youtube.com/watch?v=s_Nya0ta9bE

3. What do you consider secured e-mail? Password protected?

This means that the e-mail is sent with the Finnish Tax Administration's secured connection. To utilise the secure connection, you first need to request its use by sending a regular email to our financial sector mailbox (financialsector(a)vero.fi), after which we will send you further instructions.

Register of Authorised Intermediaries

1. Entry into force of TRACE in Finland, is it 01/01/2022?

The legislative change and the Register of Authorised Intermediaries comes into force **1st of January 2021**. The first annual information returns with the TRACE Schema are given by the end of January 2022.

2. If we are already on the Foreign Custodian Register, will it be easier and faster for us to apply for Authorized Intermediary?

The current Foreign Custodian Register will be abolished 31.12.2020 and the legal effects of the register will be discontinued. If the intermediary wishes to act as an Authorised Intermediary (AI), it must apply for registration in the Register of Authorised Intermediaries.

The applications will be handled in the order of arrival. Registration in the Custodian Register does not affect the registration procedure into the Register of Authorised Intermediaries and the registration requirements are not the same. Therefore, the fulfilment of the requirements for registration into the Register of Authorised Intermediaries has to be evaluated separately.

3. Will we be eligible to RAS (relief at source) with the registration?

An intermediary registered into the Register of Authorised Intermediaries may apply the procedure described in the Section 10 b of the Tax at Source Act. This means that the beneficiaries, who are customers of the AI, can be granted tax treaty benefits at source, if the AI has investigated and identified them and reports the beneficial owner information to the Tax Administration.

4. How correction can be performed during the year if the AI can't assume primary withholding tax responsibilities?

If an error is noticed during the payment year, the AI cannot correct the error directly to the Tax Administration, because the dividend payor is responsible for withholding tax at source and paying it to the Tax Administration. During the payment year, the error must be corrected through the payor. The correction procedure in practice depends on what kind of correction is in question. This will be described in more detail in the guidance on AI's responsibilities and liabilities, due to be published in summer 2020.

5. A new Custodian Register would replace the current Foreign Custodian Register. Do we need to apply for entry into the register even we have been in current Foreign Custodian Register from 2013?

Yes, you have to apply for registration into the Register of Authorised Intermediaries separately, if you wish to act as an AI.

6. Can non-Finnish entity become an AI?

Yes, if it fulfils the requirements of registration.

7. How long does the registration process take?

The registration applications are processed in the order of arrival. Unfortunately, we cannot give an exact estimate on how long it takes to receive a decision after submitting an application. We recommend to attach all the required information and documents to the application, so that the registration procedure is swifter and there would be no need to send a request of additional explanation to the applicant.

8. How to prove that AI liability has been transferred to another AI?

The AI has to have a confirmation at the time of payment that another AI has assumed responsibility for the dividend in question. There is no specified form for this kind of confirmation.

The AI is released from tax liability when another AI notifies it or the Tax Administration in its annual information return that it has assumed responsibility for this dividend payment information. If there is a conflict between the AIs' annual information returns, in order to be released from tax liability, the AI has to be able to show proof that another AI has assumed the responsibility for the dividends in question.

9. Are there any fees for registration?

No, there are no fees for registration.

10. What is a permit for custodian activity?

According to the Section 10 d of the Act on the Taxation of Nonresidents' Income, one requirement for registration is that the intermediary has a permit, issued by a competent public authority – that also supervises custodians' activities – of their county of residence to operate custodian activity. In practice, the permit to operate custodian activity can also be part of a wider permit.

11. Should an AI check underlying AI's registration for each payment? Is there any possibility to receive proactive notification when the list of registered AI has been updated?

The AI has to check whether the AI, to whom the dividend has been given to be transferred and who has assumed responsibility for the dividend payment information, is registered in the Register of Authorised Intermediaries at the time of dividend payment in question.

Unfortunately, there is no such functionality of notifying AI's on when the list of AI's has been updated. Nevertheless, the register itself is public and updated whenever there are changes to registration.

General questions on legislative change (relief at source and ISD)

1. Regarding dividend beneficiary is there a different approach for holding Finnish citizens or residents behind nominee account?

If a customer of an AI is a resident taxpayer in Finland and receives dividends from a Finnish company, the information of the dividend beneficiary must be reported to the dividend payor.

In situations, where the AI has identified the dividend beneficiary as a resident taxpayer in Finland but cannot deliver the beneficiary's identifying information to the dividend payor, 50 % preliminary withholding tax must be withheld. For more information, see the Tax Administration's guidance [How to withhold tax on dividends paid to a Finnish tax resident shareholder when the underlying shares are nominee-registered](#).

Note, that the fact that the dividend beneficiary is a Finnish citizen does not in itself mean that they are Finnish tax resident. An individual can be a Finnish tax resident even if they are not Finnish citizen. See also the guidance on [Tax residency and non-residency](#).

2. Does TRACE only apply to the access of treaty benefits? Or does it also apply to applications in accordance with Finnish domestic legislation?

TRACE can be applied also in certain situations where the tax benefits are based on domestic legislation. These situations will be discussed in the guidance Investor-Self Declaration and verifying its reliability, due to be published in summer 2020. See also attachment C to the ISD for entities (p. 52) in the [TRACE Implementation Package](#).

3. Non-treaty tax rate will be 35% for unidentified shareholders. Investors benefiting from reduced tax rates would need to be disclosed. What tax rate will be applied to foreign investors if we disclose the investors, but will not provide any additional documents and they can't benefit from DTT rate? I mean countries with DTT tax rates below 15% and tax rates between 15% and 29%.

The statutory rates applicable to individuals and corporate entities will not change with the upcoming legislative change. Identified individuals are still subject to 30% tax-at-source and identified corporate entities subject to 20% tax-at-source.

The 30% tax-at-source rate will be applied in cases where the beneficiary has been identified, but it is unclear at what rate the tax-at-source should be withheld.

4. Will the existing reclaim process still be in place?

Yes, the existing refund process will still be in place, there has been no legislative change in this respect. If the AI is unable to receive certainty on the applicability of the tax treaty, tax treaty benefits should not be granted. The beneficiary can still apply for a tax refund after the payment year through the refund procedure.

5. Is there a plan to go to 'No relief at source' model?

The Finnish Tax Administration does not make decisions regarding any changes in legislation. The legislator has not indicated that such a legislative change in question is being prepared.

6. Is it possible that TRACE implementation would be postponed due to COVID-19?

This would require a legislative change, which is not the Tax Administration's decision. The procedure is voluntary and the intermediaries may take it into use and register when they wish to do so. In this respect, there is no grounds for postponing the legislative change. Reporting with the new annual information returns are mandatory for AIs and the returns must be given first time in January 2022.

7. Does TRACE apply to ADR shares registered in US?

The legislative change applies to all nominee-registered shares, including ADR shares.

8. Has Finland not considered to delay the entry into force of the reform taken into account the consequences of COVID 19 in many countries, which will make difficult for foreign custodians to decide whether or not to become AI on time?

The registration is voluntary and registration can also be requested later, if the custodian doesn't want to register on 1st January 2021 due to COVID19.

9. Is there a possibility to claim treaty benefits without ISD, Tax At Source Card, or Certificate of Residency? I ask because when Norway implemented an ISD, tax relief participation dropped from 90% to 0.5%.

In order to grant tax treaty benefits at source, the beneficiary's country of residence and the applicability of the tax treaty provisions, must be ascertained. According to Section 10 b (4) in the Tax at Source Act, acceptable ways to ascertain the facts about the beneficiary's country of residence are: a tax-at-source card issued by the Finnish Tax Administration, a certificate issued by the tax authority of the beneficiary's country of residence, or an Investor Self-Declaration.

If the beneficiary's country of residence (nor the applicability of the tax treaty) cannot be ascertained, tax treaty benefits cannot be granted at source. However, the beneficiary can still apply for a refund from the Tax Administration after the payment year.

10. To identify the beneficial owner is tax-at-source card mandatory or COR issued by local Tax Authority is enough.

Referring to the previous question number 9 above, there are three ways to identify the beneficiary's country of residence: the ISD, tax at source card or a certificate of residence.

With the ISD procedure described in the guidance Investor Self-Declaration and verifying its reliability, it is certified also the applicability of the tax treaty in question. If there is no ISD, it must be noted that the payor must in addition to the tax at source card or COR also verify that the dividend beneficiary is the beneficial owner and that the international treaty's dividend criteria apply to the beneficiary.

11. Does the Investor Self Declaration replace the need to obtain a certificate of residence of the beneficial owner? Or will the applicant still be required to obtain an certificate of residence?

See questions 9 and 10 in this section. In certain situations, documentation in addition to the ISD is required in order to grant tax treaty benefits.

For example, if the permanent residence address on the ISD is not in the applicable treaty country, the ISD is deemed unreliable and tax treaty benefits cannot be granted based only on the ISD. The AI may nevertheless treat the beneficiary as a resident of the applicable treaty country, if the AI obtains additional corroborative documentation that supports the beneficiary's claim that it is a resident of the applicable treaty country. Such additional corroborative documentation may be for example a certificate of residence.

For more examples, see the TRACE Implementation Package, pp. 31-32. In the guidance Investor Self-Declaration and verifying its reliability is described in more detail the different situations in which additional explanation is required from the beneficiary.

12. Will the Quick Refund timetable change? Meaning that if we submit the QTR by the 4th business day, will the QTR be processed during 1 week or so.

If too much tax at source has been withheld, the correction is carried out as a self-correction for the payment year i.e. "quick refund" -procedure, with the dividend payor correcting the self-assessed tax return and the payment returned to the payor from the Tax Administration. There is no changes in the tax legislation regarding the correction procedure. The Tax Administration cannot give exact timetables for the processing of the correction and returning the payment to the payor.

Furthermore, it is worth noting that the Tax Administration is not involved in returning the funds to the beneficiary, this is done through the custody chain by the dividend payor. In addition, Finnish tax legislation does not regulate the time in which the payor pays the over-withholding to the beneficiary.

Tax-at-source applications

1. Can a non-Finnish resident investor apply for the card?

Discussed in the webinar is the foreign corporation's tax-at-source card: as it is stated e.g. in the name of form 6211e itself, it is an application for a tax-at-source card for a **foreign** corporation or organisation. Therefore, it is primarily meant for non-Finnish residents, as Finnish residents have their own tax cards (=verokortti).

2. How long will the old forms be valid?

Old QR-coded forms can still be used. There is no specific deadline when clients should adopt the new forms, but clients should adopt them as soon as possible, as the updates on the forms are information needed for processing. Continuing to use old forms, may

result in the Tax Administration requesting the applicant to give further information on missing information that would be available on the new form.

3. What is KATSO ID?

Katso ID is a way for corporate entities to identify themselves in various digital services in Finland, including Ilmoitin.fi portal, where you can submit XML tax-at-source applications. In addition to the Katso ID itself, a specific authorisation role must be requested for submission of tax-at-source applications called "Applying for a refund of tax at source and a tax at source card". More information on Katso ID is available here: <https://yrittys.tunnistus.fi/>

Katso ID will be gradually discontinued, and replaced by Suomi.fi ID. More information on the replacing identification possibilities will be given closer to the end of the year.

4. When FTA planned to phase out Paper based refund application forms? If the phase out date is not finalized, how much in advance that FTA plans to inform about the Phase out of paper based forms?

At present, there is no plan to completely phase out paper applications, nor is it likely that they will be completely phased out in the future. Paper applications will be available to those with no access to the electronic submission channels. If there were ever plans to phase out paper applications, we would inform about this on our various communication channels (tax.fi, newsletters, etc.).

5. What is the time frame for submitting refunds? Do applicants still have 3 years to submit a refund from dividend payment date?

The legislation has not changes in this respect. The statute of limitation is still 3 years following the year of payment. The 3-year statute of limitation is valid on income paid on 1 January 2017 or thereafter.

6. How much in advance FTA will inform industry about the phase out date of paper based forms once it has decided?

There is still an option to give a paper form and there is no plan to phase out the paper forms entirely. Please also see response to question 4.

7. With regards to corrections, if the correction is made after payment year - does the three year statute of limitation still apply? Ie does the applicant have 3 years to apply for refund of overpaid taxes?

There is no legislative change in this respect. Please see response to question 5.

8. In regards to the changes to the reclaim form and tax-at-source card will the FTA will be issuing a formal communication announcing these changes.

The updated forms have already been published 11 May 2020 on our website vero.fi, which is an official and formal communication channel. The most up-to-date versions of the forms are always available on tax.fi. We have also informed about the change on our newsletter for the financial sector and this webinar, which are all formal communication channels. If you have not yet subscribed to the newsletter, you can do so here: <http://verohallinto-konserniverokeskus-ja-finanssiala.mailpv.net/>