

FSI Breaking Tax News Tackling taxes



New tax reporting rules for extrawhite and white funds as of April 1st, 2012

Background. The tax provisions for foreign investment funds have been amended by the Austrian Tax Reform Act 2011. The main changes are the increase of the taxable income realized by the fund, which is taxable at the level of the investors ("deemed distribution income") and the introduction of a new withholding tax of 25% on the gains realized from the disposition of shares in investment funds after 1 April 2012 in case the relevant acquisition of the shares took place after 31 December 2010.

Tax Reporting. The tax reporting rules have been amended as of 1 April 2012 as well. The recently published draft decree of the Austrian Ministry of Finance provides the following additional information:

- **Daily tax reports of extrawhite funds** to the Austrian Kontrollbank (OeKB) will be abolished as of 1 April 2012 and annual tax reports of the deemed distribution income to the MoF will be abolished for business years ending after 30 November 2011.
- **Distributions made after 1 April 2012** have to be reported to OeKB by the Austrian tax representative of the fund: Distribution amounts per share have to be reported until the last day before the ex-date in the currency of the fund and rounded to four decimals.
- **Deemed distribution income** realized by funds for business years ending after 30 November 2011 has to be reported to OeKB by the Austrian tax representative of the fund: The reporting will be due six months after the business year end of the fund and includes the ordinary deemed distribution income, realized capital gains for private and institutional investors,

25% capital yields tax thereon and the amount by which the acquisition costs of the investors have to be adapted in order to avoid a double taxation of capital gains in case of the disposition of shares in the fund. The before mentioned amounts have to be reported per share, in the currency of the fund and rounded to four decimals.

- **Registration of white and extrawhite funds** as transparent funds with OeKB: Extrawhite funds, which have carried out the daily tax reporting as of 31 March 2012 correctly to OeKB, and white funds, which have reported the deemed distribution income due 31 March 2012 to the MoF in due time, will be published as transparent funds as of 1 April 2012 by OeKB. Funds which have acquired the license for public offering in Austria after 31 December 2011 and which have started with the actual public offering within one month thereafter and other funds not yet registered as transparent funds have to register as transparent fund at least two weeks before the first reporting is due at OeKB by filing a separate form.

Subject to Amendments. The final version of the Tax Reporting Decree shall be published end of February 2012. Therefore, it cannot be ruled out that amendments in relation to the draft might occur.

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