

SMPG – Tax sub-group

Telephone Conference Minutes

10th December 2020

Publication: February 2021

Table of Contents

[Attendees 3](#_Toc64295142)

[Approval of October 2020 minutes call 3](#_Toc64295143)

[Tax “Refunds” in the Opposite Direction. 4](#_Toc64295144)

[CA 438 Review GMP1 section 3.14 - (Movement Sequence & Tax Rates) 9](#_Toc64295145)

[CA 449 New MP for the usage of TAXR in Instruction (SR2020 - CR1551) 10](#_Toc64295146)

[CA465 Add VOLU to TREC in EIG+ (new topic) 13](#_Toc64295147)

[CA470 DVOP - How Best to Reflect Tax and CINL on DVOP (new topic) 13](#_Toc64295148)

[Market updates 13](#_Toc64295149)

[AOB ……………………………………………………………………………………………………………14](#_Toc64295150)

[Next Conference Calls 15](#_Toc64295151)

# Attendees

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Country** |  | **First Name** | **Last Name** | **Institution** | **Participation** |
|  | BE | Mrs | Véronique | Peeters | BNY Mellon | Excused |
| Facilitator | N / A | Mr | Jacques | Littré | SWIFT | Excused |
|  | CA | Mr | Cairbre | Cowin | RBC IS | Excused |
|  | CH | Mr | Reto | Baumgartner | Credit Suisse | Excused |
|  | DE | Mr | Daniel | Schaefer | HSBC | Excused |
|  | DE | Mr | Thomas | Rockstroh | Clearstream | Excused |
|  | SE | Mr | Urban | Hane | Nordea | a |
| Co-chair | FR | Mr | Jean-Pierre | Klak | State Street | a |
|  | FR | Mrs | Stéphanie | Clark-Fischer | BP2S | Excused |
|  | FR | Mr | Pierre-Antoine | Patinet | BP2S | Excused |
|  | FR | Mr | Ilyas | Alikoglu | Bank of New-York | a |
|  | IT | Mrs | Paola | Deantoni | Societe Generale | Excused |
|  | LU | Mr | Alexander | Reis | Clearstream | a |
| Co-chair | SG | Mr | Jyi-Chen | Chueh | Standard Chartered | a |
|  | UK & IE | Mrs | Mariangela | Fumagalli | BNP Paribas | a |
|  | US | Mr | Paul | Fullam | FIS Global | Excused |
|  | US | Mrs | Vandana | Pasricha | BBH | Excused |
|  | US | Mrs | Elizabeth | Lanfear | BBH | a |
|  | US | Mr | Caleb | Lanfear | BBH | Excused |
|  | US | Mr | Ian | De Sacia | DTCC | Excused |
|  | US | Mr | Steven | Sloan | DTCC | Excused |
|  | US | Mr | Greggory | Lewis | GlobeTax | a |
|  | XS | MR | Jean-Paul | Lambotte | Euroclear | Excused |
|  | XS | Mr | Eric | Marega | Euroclear | a |
|  | ZA | Mr | Sanjeev | Jayram | First National Bank | Excused |
|  | ZA | Mr | Dale | Van Rayne | First National Bank | Excused |
|  | ZA | Mr | Yusuf | Basha | First National Bank | Excused |

The CA SMPG Tax sub-group is happy to welcome Greggory Lewis from GlobeTax, new participant for the US Market.

Greggory has been working for 18 years at GlobeTax. Previously, he was involved on Corporate Actions at ISITC.

# Approval of October 2020 minutes call

October Minutes approved

# Tax “Refunds” in the Opposite Direction.

December 2020 call:

The subject was not discussed in the UK Market yet.

Nevertheless, 2 scenarios were highlighted during the call:  
- scenario 1 = when the Custodian is also a withholding Tax agent. In this case, there is a payment to Tax Authorities so if there is a change in the withholding tax, it is reversed from Tax Authorities to the custodian. In such a case, a cancel / replace is necessary.

- scenario 2 = quick refund (e.g. Belgium, Spain). In this case, the issuer is used to request specific documentation. So in our case, it means that the complete documentation was received after the initial payment. Here, the event which is used is a TREC (with the rate qualifier TXRC) and not the initial DVCA.

As a conclusion, the group still has an issue between ‘posting’ and ‘not posting’ case. If the withholding tax has been posted, then it can’t be anything else than a cancel / replace.

More generally speaking, and despite of the fact that Robin Leary already provided some examples, there is no specific NMPG request raised on this topic so it would be preferable to have first some NMPGs feedbacks and / or a specific request from a Market where there is this issue.

October 2020 call:

Final decision to take on this topic

Jacques also raised the fact that this topic has no number assigned for the follow-up.

It has been agreed during the call that if the topic is maintained, a number will be assigned, if removed, no more need for a number.

Mari suggested to see if some additional examples could be found in some other Markets and this case will also be shared within the UK Market.

June 2020 call:

Further to Robin Leary’s previous presentation in April, some additional comments were raised during the June call:

Liz confirmed that her preference is a Cancel / Replace process via MT566  
Sanjeev explained that the context was understood but it should be considered as an adjustment of an incorrect initial posting  
Finally, Mari suggested to see if some additional examples could be find in some other Markets and this case will also be shared within the UK Market.

April 2020 call:

The call started by a presentation by Robin Leary of the business case related to the so called topic ‘Tax ‘’refunds’’ in the opposite direction’.

To help discussions, some additional examples were provided by Robin. Please see below:

‘’It’s kind of a reverse of the tax refund. Instead of crediting an amount because too much tax was paid, this is debiting because too little tax was paid.

The way we’ve looked to do it is as a tax refund but with a debit CASHMOVE and a negative TRXC rate (instead of a positive one you’d normally see with the refund).

The following example is from an UAT environment with GBP element but the case is related to Japan and LATAM countries.’’

**Scenario:**

Original WTH rate =                         10%

Original Local rate =                        30%

Gross Dividend =                              GBP 2.18

WTH Tax =                                           GBP 0.22

Net Received =                                  GBP 1.96

Local Tax =                                          GBP 0.65

Net Dividend =                                  GBP 1.31

Replacement WTH rate =              50%

Replacement Local rate =              5%

Tax Reclaim rate =                           (-)15% (i.e. 10%-50%+30%-5%)

Tax Reclaim amount (Debit) =     GBP 0.33

**Tax Refund MT564 Entitlement Notification:**

:16R:GENL

 :20C::CORP//39931900300

 :20C::SEME//39931900304/001

 :23G:NEWM

 :22F::CAEV//DVCA

 :22F::CAMV//VOLU

 :98C::PREP//20191122074727

 :25D::PROC//ENTL

 :16R:LINK

 :13A::LINK//566

 :20C::PREV//39931900301/003

 :16S:LINK

 :16S:GENL

 :16R:USECU

 :35B:ISIN GB00B0FYMT95

 HELICAL PLC

ORD GBP0.01

 :16R:FIA

 :94B::PLIS//EXCH/XLON

 :22F::MICO//OTHR

 :16S:FIA

 :16R:ACCTINFO

 :97A::SAFE//6000000000

 :93B::ELIG//UNIT/150000,

 :93B::INBA//UNIT/0,

 :93B::UNBA//UNIT/150000,

 :16S:ACCTINFO

 :16S:USECU

 :16R:CADETL

 :98A::RDTE//20190131

 :98A::XDTE//20190131

 :92F::INTR//GBP14,5

:22F::ADDB//CAPA

 :22F::ADDB//TAXR

 :16S:CADETL

 :16R:CAOPTN

 :13A::CAON//001

 :22F::CAOP//CASH

 :11A::OPTN//GBP

 :17B::DFLT//Y

 :98B::RDDT//UKWN

 :16R:CASHMOVE

 :22H::CRDB//DEBT

 :97A::CASH//00000012345678

 :19B::GRSS//GBP0,33

**:19B::TXRC//GBP0,33**

 :19B::ENTL//GBP0,33

 :98A::PAYD//20190131

:92A::TXRC//N15,

 :16S:CASHMOVE

 :16S:CAOPTN

 :16R:ADDINFO

 :70E::ADTX//TEST  6

 :95P::MEOR//CITIGB2L

 :16S:ADDINFO

**Tax Refund MT566 Confirmation:**

:16R:GENL

 :20C::CORP//39931900300

 :20C::SEME//39931900304/002

 :23G:NEWM

 :22F::CAEV//INTR

 :98C::PREP//20191122074727

 :16R:LINK

 :13A::LINK//564

 :20C::PREV//39931900304/001

 :16S:LINK

 :16S:GENL

 :16R:USECU

 :97A::SAFE//6000000000

 :35B:ISIN GB00B0FYMT95

 HELICAL PLC

 ORD GBP0.01

:16R:FIA

 :94B::PLIS//EXCH/XLON

 :22F::MICO//OTHR

 :16S:FIA

 :93B::ELIG//UNIT/150000,

 :93B::CONB//UNIT/150000,

 :16S:USECU

 :16R:CADETL

 :98A::RDTE//20190131

 :98A::XDTE//20190131

 :22F::ADDB//TAXR

 :16S:CADETL

 :16R:CACONF

 :13A::CAON//001

 :22F::CAOP//CASH

 :16R:CASHMOVE

:22H::CRDB//DEBT

 :97A::CASH//00000012345678

 :19B::GRSS//GBP0,33

 :19B::TXRC//GBP0,33

 :19B::NETT//GBP0,33

 :19B::PSTA//GBP0,33

 :98A::POST//20191115

 :98A::VALU//20191115

 :98A::PAYD//20190131

 :92A::TXRC//N15,

 :92F::INTP//GBP14,5

 :16S:CASHMOVE

 :16S:CACONF

 :16R:ADDINFO

 :95P::MEOR//CITIGB2L

 :16S:ADDINFO

**Discussion during April 2020 call:**

People need to disregard the split between INBA / UNBA balances. UNBA balance is only due to test environment so not a key point in the example provided.

The first point raised to Robin by the tax subgroup was this issue related to the Cancel / Replace process not applied in the proposed scenario.  
  
In the different / comments questions:  
  
Is it an internal adjustment or related to a Market adjustment? If it is a Market adjustment, then it can’t be something else than a cancel / replace. Furthermore, knowing that additional cash will come in relation to the Tax Reclaim, it is difficult to identify the exact Tax rate without a cancel / replace. The original local rate needs to be known.

Even if the rationale is clearly understood, the IT systems are not built for negative Tax rates.   
It may create a potential issue in the reconciliation process.

.

Robin explained that the reason why the cancel / replace was not envisaged is due to the fact that here we are in the case of a first booking / posting followed by a second booking /posting.  
Today, there are no messaging related to this case, the information is only sent via email.   
It is the aim of this proposal to migrate into a SWIFT based format

Mari highlighted the fact that we need to pay attention on countries where there is a Tax Credit process.

If the solution proposed by Robin is accepted, the group confirmed the need of a clear definition and process knowing that the 2 following cases need to be taken into consideration:

a/ Markets with a standard Tax reclaim process  
b/ Markets where a quick refund is applied. It is a practice in some Markets to credit the difference. Example of the QI certification: first, the account may be taxed at 30pct and when the certification is provided a credit of 15pct is posted back.

In addition to the US, in some countries such as Italy or France, when the required documentation is received, the local custodian being also a Tax agent can adjust the original rate.

Regarding the second event (the adjustment), should it be under the same Corporate Actions event (i.e. DVCA as in the example provided by Robin) or rather a TREC (long definition = event related to Tax Reclaim activities)?

It appears that there is a need for a common example that could cover all cases. Some additional examples related to different Markets will be also welcome.

As a conclusion, if the Tax sub-group agrees on the proposal, the only impact would be to change the current TXRC definition in the SWIFT standards.

Current TXRC definition:

|  |  |  |
| --- | --- | --- |
| TXRC | Reclaim of Taxes | Amount that was paid in excess of actual tax obligation and was reclaimed. |

\* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \*

February 2020 call: No progress. JP will double check if the topic is still open

Comments / additional questions during December 2019 call:

Is the case similar to Tax adjustment as for QI in the US ?

We need to clarify if it is related to a payment adjustment or refund because refund may implies other concerns such as tax collection to Tax authorities

Are we in a Quick refund scenario ? but what could be the added value compared to a cancel / replace ?

Similarly to the above question, is it rather an adjustment on the income payment or an adjustment on the taxation part (Tax reclaim itself) ?

Sanjeev will check how it works in South Africa because this case seems to remind him a similar scenario in the South African Market.

**In addition, Daniel sent also some comments by email:**

*To me, if the tax rate of a payment has been wrong, this is totally different than a tax reclaim.*

*An incorrect payment calls for a reversal and corrected payment.*

*A Tax Reclaim is generally initiated by the investor on a case-by-case basis; sometimes it is based on a standing instruction.*

*A correction of the tax rate as a tax credit would generally not be processed as a tax reclaim credit.*

*Similarly, a correction of the tax rate as a debit should also not be processed as a reverse tax reclaim.*

*If the tax rate or the taxable amount was incorrect, a new MT564 should be sent, correcting the previous announcement. Many actors would not expect to receive an MT564 with corrections of event data once the event has been processed. The only case where 564s should follow 566s would be Market Claims and these messages should not be used to amend important event data.*

*The majority of actors would therefor expect the MT566 to be reversed before receiving an MT564 with corrected event data fields.*

*Therefore, the tax should not be corrected by merely posting a tax reclaim to pay the tax difference amount, but as a reversal and corrected new posting.*

Discussion during October 2019 call:

The group was wondering why the process was not proposed or managed via a Cancel / Replace? Referring to the example: 'Tax applied was 15% and it should have been 20%',  
1. Is the need only to communicate the difference between the two tax rates / amounts applied  
or  
2. Is there any posting adjustment on client account?

Nevertheless, in both cases, the group would recommend a Cancel / Replace process.

JP will come back to the requestor in order to get some more documents or Market examples on this case in order to clarify the business scenario.  
The group also asked how often this case appears?

**Action**:

Participants are still required to investigate on a similar scenario outside the UK and this case will be also discussed within the UK Market.

# CA 438 Review GMP1 section 3.14 - (Movement Sequence & Tax Rates)

June 2020 / October / December call: no progress.  
JP will share with the group the current version of the GMP for further discussion.

April 2020 call: still no progress and unfortunately impossible to be covered during the global SMPG due to the special circumstances and limited attendance physically present in South Africa

February 2020 call:

No progress on that topic. To see if it could be discussed during SMPG in South Africa

Comment during December 2019 call:

Mari explained the case where one dividend could have different tax rates applied and according to the issuer, announced in two separate events.

In the UK Market, it appears that there is one event for the normal dividend and a second event announced with property rate

In other Markets: there are also some cases with multiple components on the distribution so tax rates were repeatable which is no longer the case.

Urban explained that the scenario is not necessarily applicable for Nordics

Alexander and Eric, from their ICSD perspective pointed out that it could relate to some few Markets and some specific instruments… but breaking the STP due to a specific case and specific Market practice.

Sanjeev also identified a similar scenario for South Africa and will provide an example

Comment received by email from South Africa prior to October 2019 call:

“Ideally each distribution (component) should be communicated in its own movement and we are not aware of instances where a distribution may be subject to more than 2 withholding taxes, i.e. as announced by the issuer and the local. We acknowledge though that a distribution may be subject to multiple taxes, e.g. withholding, capital, income, transfer tax, etc. Furthermore, we’re of opinion that blended rates (made up of 2 or more rates) do not provide the required clarity and therefore we should encourage that each component should be communicated as a separate movement. The use of blended rates could then be considered for a specific market practice, i.e. only for that particular market.”

Input from Frankfurt April 2019 SMPG meeting discussions:  
Mari described the background.

Different component of income distribution should have the relevant tax rate in the same cash movement block as per section 3.14 MP. However, it is no longer fully possible to follow section 3.14 after CR1294 in SR2018 stopped TAXR and WITL tax rates from being repeated.

It’s no longer possible to have several rates repeated in the subsequence so the market practice is no longer correct.

Dividend, real estate, capital return should be in different movement sub-sequences with the applicable tax rates. If you have the same tax rate then it’s ok to show all income in one subsequence.

**Action**:

The participants are requested to share some Market examples they can find.  
Mari and Jean-Pierre will review 3.14 and propose an amended version that will be illustrated with some examples taken from those shared by the group.

# CA 449 New MP for the usage of TAXR in Instruction (SR2020 - CR1551)

December 2020 call:

Mari amended / will amend the document according to comments received from Sanjeev (ZA) and Veronique (BE).  
Mari will share again the document with the CA SMPG and unless, any additional new comments, the document will be considered as validated.

 

Knowing that this document covers DVCA and INTR events, the next step will be to analyse the DVOP (excluding the French DVOP case which is French specific).

October 2020 call: a new version – including Sanjeev’s comments – was shared with the CA SMPG Working Group during the virtual global SMPG session

Mari will update the document accordingly and a final feedback has been requested from all NMPGs.



June 2020 call

The group reviewed the last version of the documents prepared by Mari



1 - Relief At Source document:

As indicated in the document, the Option 1 is the recommended one, nevertheless if we mention option 1 as our preference, a client may ask to its service provider to use the scenario 1 so we need to be careful on the wording. We can say that the scenario 1 is the preferred one but the scenario 2 is still accepted

Regarding Mari’s question on page 5 of the document: ‘’Do we need a market deadline or a RDDT is enough?’’, the group agreed that the Market Deadline can’t be used at all because the event is not announced by the issuer

Regarding Mari’s question on page 7 of the document:   
“”d. The account servicer will pay the income proceeds using the quantities and tax rates provided by the account owner in the MT565.

The MT566 should be issued using the event details of the DVCA (e.g. CORP//DIV3437592). It is recommended that the account servicer issues:

• either one MT566 per tax rate, or

• one MT566 with repeating movements, one movement per tax rate.””,

The Nordics are rather on choice 1.  
Another feedback was received from Mari outside the call for choice 2

Liz considered that the US would be rather on the second choice. To be confirmed

N/A for South Africa  
Alexander explained that Clearstream has both scenarios depending on the Market

Scenario 2 description is ok for the group.

2 – Quick refund document

The scenario is on a quick refund but when some players would ask for a preliminary breakdown (Spain? Belgium?)  
Ilyas explained that he never heard about a breakdown requested before the quick refund so if it is the case, so maybe that a file is used for the moment.

April 2020 call:

Mari confirmed during the call that there is an need for some additional examples related to the Tax refund scenario. An additional document will be shared by Mari with the group as soon as it is completed.

It has been also decided to launch a Change Request for SR 2021 in accordance to the proposed Market Practice.

February 2020 call:

Mari presented the draft Market Practice she prepared

Discussion during the call:

- regarding the part ‘The WTRC event will have a NOAC and a OTHR option to request the tax rates to be used to pay the income proceeds (e.g. statutory rate, DTT rates, etc)’, The group discussed on the fact that option CASH is not proposed. Knowing that there is no Cash movement, it is agreed that a CASH option would be confusing (similarly to a Disclosure request, for example).  
Consequently, should we ask for a new option code to be created only for this event? SG, XS and FR would be OK for the creation of a new code.

- Discussion on COAF: WTRC is only a service provider event so it should be without COAF and linked to the original DVCA/INTR. The response deadline date needs to be before the Pay-date of the DVCA/INTR event.

In scenario 2, MT564 DVCA/INTR CHOS: the only difference between all options should be the Tax rate.

During the call, SE, XS and ZA confirmed that they are in favour of scenario 1.

In addition to the above, Thomas (Rockstroh) provided also by email the following feedback from Germany:

“We don’t have really a relief at source in German market. We have since 2018 a tax reduction process on paying agent level only for certified investment funds.

It is more or less a transfer or responsibilities of standard refund from central tax office to paying agent (tax agent) with limitation of time period 18 month after RD of the income event. Afterwards Fund Company must contact central tax office in Germany to start DTT tax reclaim (statutory deadline 4 years).

Based on the required information’s each Custodian including CSDs collect the information regarding the German InvStG tax reduction on different ways.

For real RAS markets and RAS process we prefer scenario 1.”

Mari also started to work on the other Markets (eg. Austria, Belgium, Switzerland, …) where Relief at Source is not applicable.  
In such a case, TREC event will be used instead of WTRC and in scenario 2, it will be TREC with multiple options.

Comments during December call:

Mari and JP explained the background related to the SR2020 Change Request only focused on the MT565 and the link with the previous analysis and discussion on the certification processing flow: Scenario 1 – Scenario 2 on MT564.

The majority of current participants of the Tax sub-group were not involved in the initial discussion related to the MT564 and would be happy to re-visit the case.

Comment during October call:

The next SR 2020 will allow usage of the qualifier TAXR in sequence C (BENODET) of the MT 565.

As stated in the MWG minutes: The usage of the TAXR rates in the MT565 would be for specific use cases and it should not be used directly with income MAND event but rather in the context of WTRC events linked to mandatory income events.

**Action**:

N/A: topic on-going within the CA SMPG

# CA465 Add VOLU to TREC in EIG+ (new topic)

December 2020 call:

Topic also pending on the CA SMPG. JP will double check with Catarina.

October 2020 call:

Since Catarina Marques, from Clearstream Luxembourg, cannot attend the SMPG meeting end of September, the discussion of this topic was postponed to the next Tax SG call on October 22 or the next SMPG CA WG call in November.

Unfortunately, JP didn’t have the opportunity to liaise with Catarina Marques on this topic.

**Action**:

JP will double check if this topic will be driven by the CA SMPG Tax sub-group or not

# CA470 DVOP - How Best to Reflect Tax and CINL on DVOP (new topic)

Input from Randi Hattens (Danish Market) during the global SMPG meeting end of September 2020:



The event template R/M/O (Repetitive / Mandatory / Optional) should be aligned with the EIG+.

During, the global SMPG, the Tax Sub-Group volunteered to work on how to best format the SECU option details.

**Action**:

Topic to discuss within the Tax sub-group

# Market updates

Attached the follow up file covering the different Market initiatives.



Below an extract of this file limited to open topics



During the December call: confirmation was done regarding the Spanish FTT. A question was raised regarding any FTT indicator. JP will check what he can send in relation to this indicator.

New topic regarding Switzerland.

# AOB

**Tax payments related to trade activity**  **=> Topic on HOLD**  
i.e. Stamp Duty, VAT, FTT, Cap Gain Tax etc.

Input from Brussels September 2019 SMPG meeting discussions:  
Mari and Christine, as co-chairs of the CA SMPG met co-chairs of the Settlement & Reconciliation Working Group. Topic on hold for the Tax sub-group for the moment.

Comments during June 13th  2019 call:

During the physical SMPG meeting in April, the subject has been shared between both co-chairs from Corporate Actions and Settlement/Reconciliation working groups.

BBH is requested to write a white paper to explain the different scenarios and requirements

Attention point raised on Capital gain Tax: different methods depending on the country eg: Thailand vs Indonesia pre-settlement vs post settlement

During June 13th call, Eric suggested that a good example could be the taxation related to section 305C ; US domestic deemed dividend

Comments during March 28th 2019 call:

The US Market added some few bullets for this topic

- Specific trade transactions in a subset of markets are subject to certain taxes (e.g. Stamp duties, Transaction Tax, CGT).  Custodians and sub custodians are often times in the “middle” of the process to ultimately effect payment.    
- Client behavior and sub custodian practices aren’t consistent and the process is bifurcated. There is lack of visibility regarding end-to-end oversight of transactions from sub to custodian and down to Beneficial owner for transactions that are subject to these taxes; Process historically has been isolated to cash debit and manual in most banks   
- There is limited ability to track,  validate and ensure payments have been processed.  Multiple touch points within banks to determine if payments are processed

- BBH has proposed to the SMPG tax sub group to consider building a swift payment (Transaction tax debit) to allow for more transparency, controlled environment and streamlined process.   
- Other participants in this call should engage internally to seek out what the current process is and consider if the new tax debit message would be helpful

Topic raised in January 2019 as follows:

The US Market raised a new subject to discuss / investigate within the Tax sub-group: taxation that relates to Securities settlement activity.

Jean-Pierre highlights that, in France, when the Financial Transactions Tax (FTT) has been implemented the Market Practice was jointly established between the Settlement / Reconciliation NMPG and the Corporate Actions NMPG.

Consequently, we’ll have to pay attention to the fact that, depending on the subject we’ll discuss,   
we’ll have to include the Settlement / Reconciliation group in these discussions.

**Action**:

Topic on hold

# Next Conference Calls

In 2021, the next calls will take place on the following dates:

18th February, 22nd April, 24th June (call from 2:00 to 3:30 pm Paris time)

**------------------------ End of the Meeting Minutes -----------------**