

# The European Union Savings Directive (EUSD) - Making Use of Information Obtained:

## Help for Local Compliance

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### ***What is the European Union Savings Directive (EUSD)?***

The EUSD provides a framework for Member States of the European Union and certain other countries and territories to collect and exchange information about payments of savings income in the form of interest. It was implemented in the UK from 1 July 2005.

The aim of the Directive is 'to enable savings income in the form of interest payments made in one Member State to an individual who is resident in another Member State to be made the subject of effective taxation in accordance with the laws of the latter Member State'.

You can find a list of the countries and territories that currently participate in the EUSD or have arrangements broadly equivalent to the EUSD at Appendix 1 of the [Savings Income Reporting Guidance Notes](#) .

The Directive seeks to achieve its aim by the method of information exchange. Some countries, however, have been allowed for a transitional period (which has not yet ended) to apply withholding tax (known as Special Withholding Tax (SWT) in the UK) instead of exchanging information. The countries and territories that apply withholding tax are also indicated by the list referred to above.

The rates for SWT are:

- 1 July 2005 to 30 June 2008 - 15%.
- 1 July 2008 to 30 June 2011 - 20%.
- 1 July 2011 to present - 35%

The EUSD is a mechanism for obtaining, reporting and exchanging information about certain specified types of payments. As such the information obtained through it may not directly equate to what, under UK tax laws, may be subject to tax in the UK as income or capital gains. This needs to be kept in mind when considering the use of any information that has been obtained through the operation of the EUSD or its equivalent measures.

You can find an overview of the EUSD and the way it works on the [HMRC Website](#) .

## ***How does the EUSD operate?***

### **Countries operating information exchange**

In countries that operate information exchange the EUSD operates by financial institutions (usually called paying agents) in that country being obliged to report to their home fiscal authorities specified interest like payments within the scope of the Directive paid in that country to individuals who are resident in another participating country. The fiscal authority then collects and collates the data for each country and exchanges that information directly with the fiscal authorities of the residence country. All information exchanged between Member States is in a standardised and agreed format. There may be slight variations in the format of information provided by participating countries and territories that are not Member States.

The information will show:

- the name and address of the individual who has received the payment;
- In some instances a date and place of birth, or
- a tax identification number (TIN);
- the name and address of the person who has made the payment;
- the type and amount of the payment; and
- usually the currency in which the payment was made.

What has to be kept in mind is that these are reports of payments – not necessarily income or gains for personal tax purposes in the UK. For example, in some instances a report may be of the gross amount of sale or redemption proceeds (especially where it may not be easily possible for a paying agent to distinguish the amount of a payment that represents interest), that will nevertheless be reported under a heading suggesting it is an amount of interest. The payment type or supplementary information would need to be considered to work out exactly what the payment represents.

Information is collected by fiscal authorities for their tax year (most EU countries adopt the calendar year for their tax year, not the UK tax year to the 5 April) and is then exchanged with the country of residence within 6 months of the end of that year. For example:

- The UK sends information to each Member State by the 5 October following the end of a tax year. So exchanges in October 2012 (the 2012 exchange year) will relate to the UK tax year ending 5 April 2012.
- A country with a 31 December tax year end will send information by the 30 June following the year end. So information exchanged in June 2012 (which may be called the 2012 exchange year) will relate to that country's year to 31 December 2011. In this way it may fall into 2 tax years for UK tax.

Exchanges are made automatically and are usually once per year.

### **Countries operating withholding arrangements**

In countries that apply Special Withholding Tax (SWT), the EUSD operates by financial institutions (paying agents) in that country deducting an amount of 'tax' on all payments within the scope of the Directive paid in that country to individuals who are resident in another participating country. That tax is then accounted for to the home fiscal authorities who are obliged to share it in an

agreed ratio with the residence country. Where Special Withholding Tax (SWT) is applied, information about the payment is not exchanged, and the home fiscal authority will have no details of the individuals or payments from which the tax has been withheld. An individual receiving income that is subject to SWT is nevertheless obliged to include the income and tax in their Tax Return as with any other 'taxed' income.

Verified amounts of this SWT are treated in the UK as if they were amounts of UK income tax paid, up to the full amount of the SWT deducted. The SA Tax Return Notes make clear that SWT should be included in full in an SA Return for the tax year in which it is deducted. As this SWT is treated as income tax (it is not to be treated as 'foreign tax') it is available to set off against UK tax liabilities (income tax or capital gains tax) and may be repaid if it exceeds liability for the particular year. Any certificate verifying an amount of SWT will make clear that it is tax that has been withheld pursuant to the operation of the EUSD.

An individual can however ensure that SWT is not deducted. There are two main ways of achieving this:-

- The individual agrees with their paying agent to the voluntary exchange of information. In which case the EUSD will operate in exactly the same way as for countries exchanging information.
- The individual can obtain a certificate from their country of residence (in effect a disclosure of the specific account or holding) and present that certificate to the paying agent. There will be no exchange of information in relation to payments for an account covered by a certificate. There is more detailed information on certificates on the [HMRC Website](#) and in [guidance here](#).

### ***What happens to EUSD data received in the UK?***

Information will be received in the UK from all Member States participating in automatic exchange (Countries like Austria and Luxembourg applying special withholding tax may also exchange information where there has been voluntary agreement to exchange by the account holder). The data from Member States will be in an agreed format and received in electronic form by the Exchange of Information Team in London through a secure gateway. Information received from other countries operating the Savings Directive through equivalent agreements may not be received in exactly the same standard formats.

All data received is transferred to Centre for National Information (CNI) Cardiff for collation and processing into the Data Warehouse where it is available for the purpose of compliance checks, to compare with Tax Return entries, or for particular project work.

An exact extract of the data held for a particular individual may be disclosed to that individual upon request. You can find more information on data protection issues on the [HMRC Intranet](#)

### ***Things to consider in using EUSD data for risk or compliance activity***

The following list, not intended to be exhaustive, suggests the main issues you may need to consider:

- Keep in mind that EUSD data is a report of payments – not necessarily income or gains for UK tax purposes.

- Consider the ‘type’ of payment, in particular does it represent sale or redemption proceeds? A full list of payments that may be reportable under the Directive can be found in the [Savings Income Reporting Guidance Notes](#) from paragraph 84 onward. From this it is clear that not all reportable payments would necessarily be taxable payments and the same is likely to be the case for payments reported to the UK by other countries.
- The information may not relate to a period that matches exactly with a tax year. For example, a payment in the year to 31 December 2011 could fall into the tax year 2010/11 or 2011/12.
- The information may relate to a joint or shared holding of the account which is being reported. The information should make reference to this particular aspect by noting “shared repartition” but this has caused problems in the past.
- Check that the information you are using relates to a country that is either an EU Member State or other country participating in the EUSD. The UK also receives information that does not result from the operation of the EUSD.
- Does the information come from a country that operates the EUSD special withholding tax (SWT) arrangements? If so, consider why tax was not withheld, and why a certificate to prevent withholding was not obtained.
- If a certificate has been issued, compare it to the SA Return when that is received to try and check that the holding and any income are disclosed.
- If an SA Return or claim for repayment shows SWT, has the income been disclosed, does the rate of SWT accord with the Directive, and is it necessary to obtain a certificate to verify the amount of SWT and that it is tax deducted by virtue of the operation of the Directive?

### ***Where can I get further help or advice?***

You can get further information and advice from:

#### Centre for National Information

Telephone: 03000 580421

Please contact us if you need details of the actual information the UK has received.

#### Central Policy, Tax Administration Advice

Telephone: 03000 563692

Please contact us if:

You have a query or concern about information received under the EUSD, including the need to check the information (for example because a taxpayer denies having such a holding or suggests information is inaccurate or in error) then please contact us.

You have a query on any other aspect of the operation of the EUSD including provision and use of certificates or how to deal with SWT.