



# Certificates Tax Text

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## A. General Information

The following overview provides information on certain German tax considerations relevant to an investor resident in the Federal Republic of Germany or otherwise subject to German taxation. The following description of the tax treatment of this product is based on the interpretation of current German tax laws and general statements made by tax authorities and courts.

However, it should be noted that tax laws and their interpretation by tax authorities and courts, if any, may be subject to changes. Such changes may be introduced retroactively and may have a negative effect on the tax treatment as described below.

The following summary does not claim to be a comprehensive description of all tax aspects that may be relevant to the personal circumstances of individual investors. The following information should therefore not be understood to be tax advice. Due to the complex nature of tax regulations and the lack, in some cases, of relevant comments by the tax authorities, prospective investors are advised instead to consult a professional tax advisor regarding the tax consequences of this product with a particular view to their own circumstances.

## B. Taxation of a client with unlimited tax liability in the Federal Republic of Germany, for whom the security is held as a non-business asset

### 1. General

Clients with unlimited tax liability in the Federal Republic of Germany are subject to investment income tax ("final withholding tax" - Abgeltungsteuer) on their investment income. Interest, dividends and option premiums, as well as gains from the sale or redemption of debt claims, equities, certificates and forward transactions, regardless of the holding period or term. The tax is charged at a flat rate of 25% (plus 5.5% solidarity surcharge, and church tax if applicable). Taxpayers subject to income tax at marginal rates can have the tax office refund the difference between the investment income tax withheld and their personal tax rate (Günstigerprüfung - tax assessment based on the most favourable provisions available to the taxpayer). There is a standard savings allowance (Sparer-Pauschbetrag) per assessment period of €801 for

taxpayers assessed separately or €1602 for married couples and life partners assessed jointly. Income-related expenses (Werbungskosten) actually incurred cannot be deducted.

The final withholding tax is withheld by the taxpayer's German bank or financial services institution and has a discharging effect. The term German bank or German financial services institution includes a German branch of a non-German bank or a non-German financial services institution, but excludes a non-German branch of a German bank or a German financial services institution. If a bank account or securities account is maintained at a bank or financial services institution outside of Germany, current income and income from sale, repayment, assignment or redemption is to be declared in the taxpayer's



er's income tax return. The tax office then taxes this income in the tax assessment applying the principles of final withholding tax.

Investment income includes income from other debt claims of any kind, if repayment or a consideration for the use of the capital invested is promised or granted, even if the amount of the repayment or consideration depends on an uncertain event (section 20 (1) no.7 of the German Income Tax Act (Einkommensteuergesetz – EStG). Investment income also includes gains from the sale, redemption or repayment of other debt claims within the meaning of section 20 (1) no.7 EStG (section 20 (2) no.7 EStG).

## 2. Determination of profit and loss and offsetting of losses

Gains or losses result from the difference between the income from the disposal after expenses directly linked to the sale transaction have been deducted, and the acquisition costs and ancillary acquisition costs. In the event of redemption (at maturity), the redemption amount will replace the proceeds from the sale. For transactions not executed in euros, the proceeds at the time of the sale and the acquisition costs at the time of purchase are to be converted to euros.

Losses from the sale or redemption of the security can only be offset by other investment income in the context of final withholding tax; offsetting against other types of income is not possible. Loss carry-backs are not possible, but loss carryforwards are permitted with no time limit.

Due to a change in legislation, losses resulting from uncollectibility of a debt claim, from the derecognition of worthless assets within the meaning of section 20 (1) EStG, or transfer thereof to a third party, or from any other loss of such assets may only be offset against investment income up to the amount

Current investment income paid in foreign currency is to be converted into euros.

Investment income is also the difference between the proceeds from a sale, assignment or redemption after the expenses directly linked to the sale transaction have been deducted, and the acquisition costs; for transactions not executed in euros, the proceeds at the time of the sale, assignment or redemption and the acquisition costs at the time of purchase are to be converted to Euros at the bank selling rate.

of EUR 10,000, effective 1 January 2020. Losses not offset are carried forward to the following year and may be offset with the same proviso applicable each subsequent year.

The clients are to take account of this limit to loss offsetting themselves in preparing their tax returns. The Federal Ministry of Finance (Bundesministerium der Finanzen - BMF) has not yet published a circular on this new legal regulation, which means that the effects on the investment income tax procedure, in particular, are not foreseeable at this time.

At present, the question of whether and to what extent the restriction on loss offsetting for forward transactions effective 1 January 2021 (see the tax text on forward transactions) also applies to certificates is still open.

Questions on interpretation of the new legislation are currently being raised with the BMF.

In the case of physical settlement or delivery of the underlying asset at maturity of the security instead



of repayment of the capital invested, the original acquisition costs of the security are deemed to be the redemption amount and the acquisition costs of the underlying delivered. Delivery therefore results in realisation of neither a gain nor a loss. If in redemption of the certificate by means of physical settlement of securities (e.g. equities), fractions thereof are not delivered but settled in cash, such

payment is deemed investment income within the meaning of section 20 (1) no. 7 EStG (interest), if, from the beginning, the terms and conditions did not clearly specify redemption in cash or in units and settlement was undertaken accordingly at maturity. In such case the acquisition costs of the note are accordingly allocated to the units received.

## C. Taxation of a client with unlimited tax liability in the Federal Republic of Germany, for whom the security is held as a business asset

Persons with unlimited tax liability in the Federal Republic of Germany holding the security as part of business assets located in the Federal Republic of Germany are liable to pay income or corporation tax (Einkommensteuer/Körperschaftsteuer) (plus solidarity surcharge, currently 5.5% of the income or corporation tax payable) on current investment income and capital gains.

If, as an alternative to payment of a redemption amount, the issuer delivers the underlying, the value of the underlying is deemed the redemption amount.

If the security belongs to the business assets of a commercial enterprise operated in Germany, current income and gains are also subject to trade tax (Gewerbesteuer) (the rate of which varies by municipality).

If the security is held in a securities account at a domestic bank or financial services institution, investment income tax of 25% (plus 5.5% solidarity surcharge) is withheld, if applicable, on current investment income as well as on gains from the sale or redemption of the security held as a business asset.

In such cases, however, the income investment tax does not have the effect of a final withholding tax; it is only credited as an advance payment against the personal income or corporation tax liability and the solidarity surcharge of the holder of the security. For securities held as business assets, an exemption from withholding of investment income tax on gains from the sale or redemption of the security is possible under certain circumstances.



## D. Taxation of persons with limited tax liability in the Federal Republic of Germany

Interest and gains from the security are not subject to German taxation in the case of non-resident taxpayers, e.g. persons not tax-resident in Germany because they have neither their domicile or habitual residence, nor their seat or place of effective management in the Federal Republic of Germany. Investment income tax is not withheld in such case either.

If, however, the security forms part of the business assets of a permanent establishment (in which case trade tax is also levied on the income subject to taxation) or fixed place of business which the investor maintains in the Federal Republic of Germany, the statements on the tax treatment of investors with unlimited tax liability for whom the security forms part of business assets apply in this case (see section C).

## E. International procedures of disclosure to tax authorities (QI, FATCA and CRS)

Deutsche Bank is required under international reporting obligations such as FATCA and CRS to centrally report investment income earned by foreign investors in Germany, for whom the aforementioned disclosures apply, to the German Federal Tax Agency (Bundeszentralamt für Steuern – BZSt). As a rule, in addition to personal data, information on the amount and type of investment income as well as sales proceeds is also provided in such disclosures. The German Federal Tax Agency passes on the information disclosed by banks to the relevant authorities abroad. This product is subject to such disclosure obligations.

The qualified intermediary (QI) procedure may also be applied. In such cases, transactions may be subject to disclosure to the US Internal Revenue Service (IRS) and may, under certain circumstances, be subject to a withholding tax.

Dividend equivalent payments in accordance with Internal Revenue Code Section 871(m) referencing US securities may, if certain requirements are met, be subject to a US withholding tax of 30%. The aforementioned tax liability applies even if, pursuant to the terms of the securities, no actual dividend-related amount is paid or adjustment made and thus investors can only determine with difficulty or not at all any connection to the payments to be made in respect of the securities. The BMF does not consider such dividend equivalent payments as dividends within the meaning of Article 10 of the Double Taxation Convention between the USA and Germany, but as other income within the meaning of Article 21 of the Double Taxation Agreement between the USA and Germany. This thus excludes crediting for the taxpayer of the 15% non-refundable withholding tax.