



BULLETIN – 220629/61

ICMSA Bulletin – Global Tax Procedures – Tax Relief at source and refund Procedures for the Czech Republic

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1. Scope

This document deals with the Eurobonds that are cleared through, primarily, ICSDs and which are subject to the New Czech Withholding Tax Rules as of 1 January 2022.

1.2 These generic guidelines set out the typical time frames and necessary actions to enable all parties to understand the standard mechanisms available to obtain relief at source or a refund of tax deducted.

1.3. Detailed procedures applicable to each new Czech Eurobond issued will be released using the format set up below and attached as an Appendix to this document, once approved by the ICMSA Tax Sub-Committee.

2. Definitions:

Beneficial Owner means a holder of a Eurobond if such holder is also a beneficial owner (within the OECD Model Tax Convention on Income and on Capital meaning of this term) in respect of income paid on such Eurobond or a recipient of such income who qualifies as a beneficial owner within the above meaning.

Beneficial Ownership Information or **BOI** means certain information and documentation concerning, in particular, the identity and country of tax residence of a recipient of a payment of interest or principal in respect of the Eurobonds (together with relevant evidence thereof) which enable the issuer to reliably establish that such recipient is a Beneficial Owner with respect to any such payment and that all conditions for the granting of a tax relief, if any, are met. The Beneficial Ownership Information is further detailed in Section 4 (*Beneficial Ownership Information*) below.

Business Day means any day on which the ICSDs are open for business which is currently every day with the exception of Christmas Day, New Year's Day, Saturdays and Sundays.

Classical Global Note or **CGN** means form of global certificate which requires physical annotation on the attached schedule to reflect changes in the issue outstanding amount.

Clearstream means Clearstream Banking S.A., Luxembourg.

Coupon means a bond yield which is determined in a manner other than by a Discount (e.g., by a fixed or floating interest rate).



Czech Income Taxes Act means the Act No. 586/1992 Coll., on Income Taxes, as amended.

Depository means either the concerned common depository where the Eurobonds are issued in CGN form or common service provider where the Eurobonds are issued in NGN form.

Discount means a bond yield which is determined by a (positive) difference between the nominal value of a bond and its issue price.

Early Redemption Premium means any extraordinary yield payable by an issuer in the event of an early redemption of a bond.

Entitlement Date or **Record Date** means the fifteenth business day before the relevant Payment Date.

Eurobond means a bond issued outside the Czech Republic by a Czech tax resident issuer on or after 01/01/2022.

Euroclear means Euroclear Bank SA/NV, Brussels.

International Central Securities Depositories or **ICSDs** means Clearstream and Euroclear.

New Czech Withholding Tax Rules means Czech withholding tax rules applicable to the Eurobonds under the Czech Income Taxes Act as amended by the by the Act No. 609/2020 Coll. and Act No. 353/2021 Coll.

New Global Note or **NGN** means a form of global certificate which refers to the records of the ICSDs to determine the issue outstanding amount.

Noteholder means each person (other than another clearing system) who is for the time being shown in the records of Euroclear or Clearstream (as the case may be) as the holder of a particular aggregate principal amount of the Eurobonds.

Paying Agent means an entity that acts on behalf, and upon request, of the issuer by whom it is appointed to, amongst other things, process the cash payments to be made by the issuer in connection with the Eurobonds.

Payment Date means an income-event payment date.

Person Related Through Capital means every person in a situation where (i) one person directly or indirectly participates in the capital of, or voting rights in, another person, or (ii) one person directly or indirectly participates in the capital of, or voting rights in, several persons and, in each case, such participation (whether direct or indirect) constitutes at least 25% of the registered capital of, or 25% of the voting rights in, such other person/persons.



Procedures means the Relief at Source Procedure, the Quick Refund Procedure and the Standard Refund Procedure.

Qualifying Tax Non-Resident means a Czech tax non-resident who (i) is not a Person Related Through Capital to the issuer and (ii) has not created a legal relationship with the issuer mainly for tax reasons (i.e., with the aim to reduce a tax base or to increase a tax loss).

Quick Refund Procedure means a procedure whereby refunds of Withholding Tax and/or Tax Security (as the case may be) are performed by a Withholding Agent before the expiry of the period for transferring the withheld amounts to the Czech tax authorities because the Beneficial Ownership Information has not been provided in accordance with and within the deadline for the Relief at Source Procedure.

Relief at Source Procedure means a procedure whereby income proceeds are paid taking into account exemption and/or applicable reduced rate as foreseen by the applicable tax laws or under any applicable Tax Treaty.

Residence Country means a country of tax residence of the Beneficial Owner.

Standard Refund Procedure means a procedure whereby withheld Withholding Tax is reclaimed through a Withholding Agent from the Czech tax authorities after the income has been paid net of such Withholding Tax at the maximum rate (and such Withholding Tax has been paid to the Czech tax authorities) because the Beneficial Ownership Information has not been provided in accordance with and within the deadlines for either the Relief at Source Procedure or the Quick Refund Procedure.

Tax Security or **TS** means an amount that is required to be deducted or withheld under certain circumstances by a Withholding Agent from the payments of income on a Eurobond where such income is out of scope of Withholding Tax and any tax thereon should be self-assessed by the recipient of the relevant income. The Tax Security serves essentially as an advance (collateral) and, accordingly, unlike the Withholding Tax, the amount so withheld does not generally represent a final tax liability. An issuer may be released from an obligation to withhold Tax Security based on a decision of the tax authorities.

Tax Treaty Country means a Residence Country with which the Czech Republic has a treaty in force for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and capital gains (a **Tax Treaty**). In the case of Taiwan, the Tax Treaty means Act No. 45/2020 Coll., on the elimination of double taxation in relation to Taiwan, as amended.

TIEA Country means a Residence Country with which the Czech Republic has a bilateral or multilateral treaty in force on exchange of information in income tax matters (a **TIE Agreement**) but which is not a Tax Treaty Country.

Withholding Agent means an issuer of the Eurobonds in its capacity as a person who is required to deduct or withhold under the applicable law the Withholding Tax and/or the Tax Security (as the case may be) from a payment of income under a Eurobond.



Withholding Tax or **WHT** means any tax (other than a Tax Security) that is required to be deducted or withheld by a Withholding Agent from a payment of income on a Eurobond.

3. Withholding tax treatment of the Eurobonds:

Under the New Czech Withholding Tax Rules, unless exempt from tax or unless a Tax Treaty states otherwise, income payable by an issuer in respect of a Eurobond may be subject to the Withholding Tax and/or the Tax Security (as the case may be). Depending on the tax status of a Beneficial Owner and the nature of income paid, the tax treatment is as follows:

Tab 3.1 – General tax treatment

Nature of income		Tax status of a Beneficial Owner		Coupon	Discount
				Coupon	Discount
Non-certified (undocumented) Beneficial Owners				35% WHT	1 % TS
Certified (documented) Beneficial Owners	Czech tax residents	Individuals		15% WHT	0% TS
		Others		0% WHT	0% TS
	Czech tax non-residents	Qualifying Tax Non-Residents		0% WHT	0% TS
		Others	EU/EEA tax residents	15% WHT or a reduced rate/exemption under a Tax Treaty*	0% TS
			Tax residents of a non-EU/EEA country which is a Tax Treaty Country or a TIEA Country	15% WHT or a reduced rate/exemption under a Tax Treaty*	1% TS unless eliminated under a Tax Treaty



			Tax residents of a country which is neither a Tax Treaty Country nor a TIEA Country	35%*	1% TS
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* Please refer to Tab 3.2 if the Eurobonds are attributable to a Czech permanent establishment

Specific exceptions to the above treatment apply in case of a Coupon payable to a Beneficial Owner who is a Czech tax non-resident (other than a Qualifying Tax Non-Resident) and who holds the Eurobonds through a Czech permanent establishment. The following table is therefore irrelevant for the Czech tax non-resident Beneficial Owners who do not have a Czech permanent establishment or who have one but do not hold the Eurobonds through such permanent establishment.

Tab 3.2 – Specific tax treatment of a Coupon where the Eurobonds are attributable to a Czech permanent establishment of a Czech tax non-resident Beneficial Owner

Nature of income				Coupon	
Tax status of a Beneficial Owner					
Certified (documented) Beneficial Owners	Czech tax non-residents (other than Qualifying Tax Non- Residents) holding the Eurobonds through a Czech permanent establishment	EU/EEA tax residents	Individuals	15% WHT	
			Others (e.g. legal entities)	0% WHT	
		Tax residents of a non- EU/EEA country which is a Tax Treaty Country or a TIEA Country	Individuals	15% WHT	
			Others (e.g. legal entities)	0% WHT but 10% TS	
	Tax residents of a country which is neither a Tax Treaty Country	Individuals	15% WHT		
		Others (e.g. legal entities)	0% WHT but 10% TS		



		nor a TIEA Country		
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The applicable Withholding Tax and Tax Security basis and rates are as follows:

Tab 3.3 – Overview of tax basis and rates

	Withholding Tax (WHT)	Tax Security (TS)	
		Coupon ¹	Discount
Basis for withholding	Gross amount of income paid	Gross amount of income paid	Nominal value at maturity or the amount paid upon an early redemption ²
Applicable rates	0% / 15% / 35% or a reduced Tax Treaty rate	10%	1%

¹ Applicable under certain circumstances where a Eurobond in respect of which a Coupon is paid is attributable to a Czech permanent establishment of a Czech tax non-resident bondholder (other than a Qualifying Tax Non-Resident). Please refer to Tab. 3.2 for more details.

² Excluding any Early Redemption Premium which should be treated as a Coupon and taxed as such.

4. Beneficial Ownership Information

4.1. Type of documents and validity

Depending on the particular circumstances of a Beneficial Owner, the Beneficial Ownership Information to be collected in accordance with the Procedures shall include the following information and documents:

Tax status of Beneficial Owner	Beneficial Ownership Information	Validity
Czech tax residents	A declaration of the Beneficial Owner in the form as set out in the [Annex 1] to this bulletin. The declaration can be signed on behalf of a Beneficial Owner by a duly	1 calendar year



	authorised representative based on a power of attorney in which case such power of attorney must be attached to such declaration.	
Czech tax non-residents	<ol style="list-style-type: none">1. A tax residency certificate (with a translation thereof into the English or the Czech language if such certificate is issued in any other language) of the Beneficial Owner issued by the competent tax authority in the jurisdiction where such Beneficial Owner is tax resident and attesting its tax residency in such jurisdiction; and2. A declaration of the Beneficial Owner in the form as set out in the [Annex 1] to this bulletin. The declaration can be signed on behalf of a Beneficial Owner by a duly authorised representative based on a power of attorney in which case such power of attorney must be attached to such declaration.	1 calendar year

4.1. Form of documents

The Beneficial Ownership Information documents can be provided in either original or certified form or as an uncertified photocopy or scan. Please refer to [Annex 2] to this bulletin for requirements concerning photocopy and scanned documents.

5. Procedures

5.1. Overview

Under the New Czech Withholding Tax Rules, the issuer of the Eurobonds, in its capacity as a Withholding Agent, is responsible for:

- a proper withholding of the Withholding Tax and the Tax Security (as the case may be) from any payment of interest and principal in respect of the Eurobonds as well as for the granting at source of any relief therefrom (whether in the form of an exemption or a reduced rate); and
- the remittance of any such withheld amounts and their reporting to the Czech tax authorities.

The issuer bears a burden of proof vis-à-vis the Czech tax authorities in respect of a proper fulfilment of its withholding and remittance obligations and, accordingly, unless the issuer receives in accordance with the Relief at Source Procedure a true, accurate and complete Beneficial Ownership Information, it will proceed as follows:

- withhold the Withholding Tax at the rate of 35% from any payment of a Coupon and the Tax Security at the rate of 1% from any payment of principal where the relevant Eurobond in respect



of which such payment is made was issued at a price lower than its principal amount (i.e. was issued below par); and

- make the relevant payments in respect of the relevant Eurobond net of any withholdings so made.

However, if the Beneficial Owner is entitled to any tax relief, it may submit a correct, complete and accurate Beneficial Ownership Information for the purposes of the Quick Refund Procedure to become entitled for a refund of any withheld Withholding Tax and/or Tax Security (as the case may be).

Should the Beneficial Owner, who is otherwise entitled to a tax relief, fail for any reason to make use of the Quick Refund Procedure, it may make use of the Standard Refund Procedure, meaning that the Beneficial Owner may deliver a correct, complete and accurate Beneficial Ownership Information to the issuer no later than three years from the end of a calendar year in which the Payment Date on which the payments which were subject to relevant withholdings with respect to the Withholding Tax were made (no refund of any Tax Security is possible through a Standard Refund Procedure and the relevant Beneficial Owner should directly approach the Czech tax authorities in this respect). However, the Beneficial Owners should note that there is a risk that, in spite of duly providing all the relevant information, no refund will be obtained by the Beneficial Owner as under the Standard Refund Procedure any such refund is conditional on the ability of the issuer to, firstly, successfully recover the withheld amounts from the Czech tax authorities. Any Standard Refund Procedure would generally also be subject to a fee covering the issuer's costs incurred in administering the relevant procedure. For avoidance of doubt, any communication in respect of the Standard Refund Procedure shall be made directly between the issuer and the relevant Beneficial Owner, whereas the ICSDs will not be involved in the Standard Refund Procedure.

5.2. Relief at Source Procedure

Step	Deadline	Action	Owner
1	At least 21 Business Days before the Payment Date (<i>irrespective of whether a holding is recorded with the respective ICSD or not</i>), or as soon as reasonably possible in the case that the security is created less than 21 days before the Payment Date (i.e. in the case of short first coupon).	The Depository notifies Clearstream and Euroclear of an upcoming income event via SWIFT message type 564 (or less preferably via MT568) or via a secured e-mail containing the same information/content as the SWIFT message type 564. The SWIFT shall specify: the Record Date (:98A/RDTE) the Payment Date (:98A::PAYD) the Taxability (17B::CERT//Y)	Depository
2	Until the date which is nine Business Days prior to each relevant Payment Date before 18:00 CET	Noteholders arrange for and collect the BOI in respect of each Beneficial Owner and provide the collected BOI to the ICSDs.	Noteholders
3	On the date which is eight Business Days prior to each relevant Payment Date before 18:00 CET	ICSDs provide the collected BOI to the Paying Agent via Depository together with a list of the Beneficial Owners claiming a tax relief.	ICSDs



		received payments net of any Withholding Tax and/or Tax Security (as applicable).	
2	On a Business Day immediately following the 15 th day of the month following the month in which the relevant Payment Date occurred) (or the next Business day if the 15 th is not a Business Day) before 18:00 CET time = the QR ICSDs Deadline	The ICSDs provide an additional BOI to the Paying Agent via Depository together with a list of the Beneficial Owners claiming a tax relief via the Quick Refund Procedure.	ICSDs
3	On the next Business Day after the QR ICSDs Deadline	The Paying Agent reviews the collected BOI using appropriate methodology in order to determine that: a) the name and country of residence on the declaration of the Beneficial Owner match the information in the tax residency certificate and in the list of Beneficial Owners as received from the ICSDs; b) the declaration of Beneficial Owner is duly signed, dated and all relevant sections are complete (and that the relevant power of attorney, if applicable, is duly signed and enclosed); and c) the tax residency certificate within its period of validity, and sends so reviewed collected BOI and the list of Beneficial Owners to the issuer for its review and calculation of any Withholding Tax and Tax Security to be refunded.	Paying agent
6	On the fifth Business Day after the QR ICSDs Deadline	The issuer calculates any Withholding Tax and Tax Security to be refunded and sends to the Paying Agent such tax refund calculation which will be considered as a final tax refund calculation by the Paying Agent.	Issuer
7	On the sixth Business Day after the QR ICSDs Deadline	The Paying Agent notifies the Depository and the ICSDs with approved quick refund amounts and transfer these amounts to the ICSDs.	Paying agent
8	On the sixth Business Day after the QR ICSDs Deadline	The Depository sends the pre-advice messages to the ICSDs via MT564 with function :23G:REPE, indicating the refund amount to be paid.	Depository



Annex 1

Declaration of Beneficial Ownership

In addition to the terms defined elsewhere in this declaration, all capitalized terms used in this declaration shall have the meaning ascribed to them below under the heading titled "Definitions".

Please read and follow the filing instructions in square brackets below.

1. IDENTIFICATION OF BENEFICIAL OWNER <i>[complete all fields]</i>	
Full name:	
TIN or date of birth:	
Address of registered seat or a permanent residence address (individuals):	
Country of tax residence: (the Residence Country)	
Declaration signed based on a power of attorney: <i>[tick one as appropriate]</i>	<ul style="list-style-type: none">• Yes <i>[the relevant power of attorney must be attached to this declaration]</i> <input type="checkbox"/>• No <input type="checkbox"/>

HEREBY DECLARES THAT
he, she or it:

2. BENEFICIAL OWNERSHIP OF INCOME FROM THE NOTES <i>[complete all fields]</i>	
A. Holds a beneficial interest in the notes:	
a. ISIN _____	(the Notes);
b. issued by _____	(the Issuer);
c. in the aggregate principal amount of: _____.	



B. Is a Beneficial Owner of income from the Notes and such income is considered as his, her or its income under the tax laws of the Residence Country.

3. CLAIM OF BENEFICIAL TAX STATUS *[complete either A. or B.]*

A. Is a **Czech tax resident** who is: *[tick as appropriate]*

1. an individual
2. other than an individual

B. Is a **Czech tax non-resident** who is: *[complete either 1. or 2.]*

1. a Qualifying Tax Non-Resident *[if yes, please leave 2. below blank]*

2. **not** a Qualifying Tax Non-Resident and who: *[complete either 2.1 or 2.2]*

2.1 does **not** hold the Notes through a Czech permanent establishment and is a tax resident of *[tick one as appropriate]:*

- a Tax Treaty Country and is entitled to the benefits of the Tax Treaty
- a TIEA Country

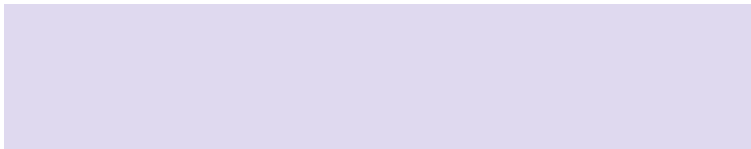
2.2 holds the Notes through a Czech permanent establishment and is a tax resident of *[tick one as appropriate]:*

- an EU/EEA Country and is:
 - i. an individual
 - ii. other than an individual
- a non-EU/EEA Country and is:
 - i. an individual
 - ii. other than an individual

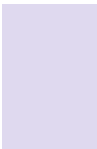
He, she or it affirms that all of the above is true and correct and acknowledges that the ICSDs and the Issuer will act on the information contained in this declaration and that the Issuer may, in its capacity as withholding tax agent, forward this declaration (or a copy hereof) and any other document submitted in connection herewith to the competent authorities in connection with any administrative or legal proceedings or official inquiries for which this declaration is or would be relevant.

In case any of the above mentioned facts changes, he, she or it undertakes to inform, via the appropriate chain of communication, the ICSDs about these changes in writing without undue delay.

This declaration shall apply with respect to the interest payment distributed on (interest payment date) on the above-mentioned securities.



**International
Capital Market
Services Association**



The undersigned person(s) declare to be authorised and entitled to sign this declaration.

Place and date: _____

Signature: _____

Name: _____

Title: _____

ICSD account number on which the Notes are held: _____



Definitions

In this Annex:

Beneficial Owner means a holder of the Notes if such holder is also a beneficial owner (within the OECD Model Tax Convention on Income and on Capital meaning of this term) in respect of income paid on such Notes or a recipient of such income who qualifies as a beneficial owner within the above meaning.

EU/EEA Country means a Residence Country which is a member state of the European Union (other than the Czech Republic) or another state forming part of the European Economic Area.

TIEA Country means a Residence Country with which the Czech Republic has a bilateral or multilateral treaty in force on exchange of information in income tax matters (a **TIE Agreement**) but which is not a Tax Treaty Country.

ICSDs means Clearstream Banking S.A., Luxembourg and Euroclear and Euroclear Bank SA/NV, Brussels.

Payment Date means an income-event payment date in respect of the Notes.

Person Related Through Capital means every person in a situation where (i) one person directly or indirectly participates in the capital of, or voting rights in, another person, or (ii) one person directly or indirectly participates in the capital of, or voting rights in, several persons and, in each case, such participation (whether direct or indirect) constitutes at least 25% of the registered capital of, or 25% of the voting rights in, such other person/persons.

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Tax Treaty Country means a Residence Country with which the Czech Republic has a treaty in force for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and capital gains (a **Tax Treaty**). In the case of Taiwan, the Tax Treaty means Act No. 45/2020 Coll., on the elimination of double taxation in relation to Taiwan, as amended.

TIN means a tax identification number.



Annex 2

Requirements for photocopy and scanned documents

- Documents must be scanned/photocopied from the original, at their original size and in colour (where possible);
- Documents must be clearly legible and complete (where a document has stamps, seals or text on both sides of the page then both sides must be scanned/photocopied); and
- Scanned documents must be in one of the following formats: pdf, jpg, or jpeg.