

# **Market Updates**

**March 4, 2008**

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## Objective: Education

- **Background**
- **Market Updates**
- **Complex Environment**
- **Importance of Knowledge and Planning**

# The Principles

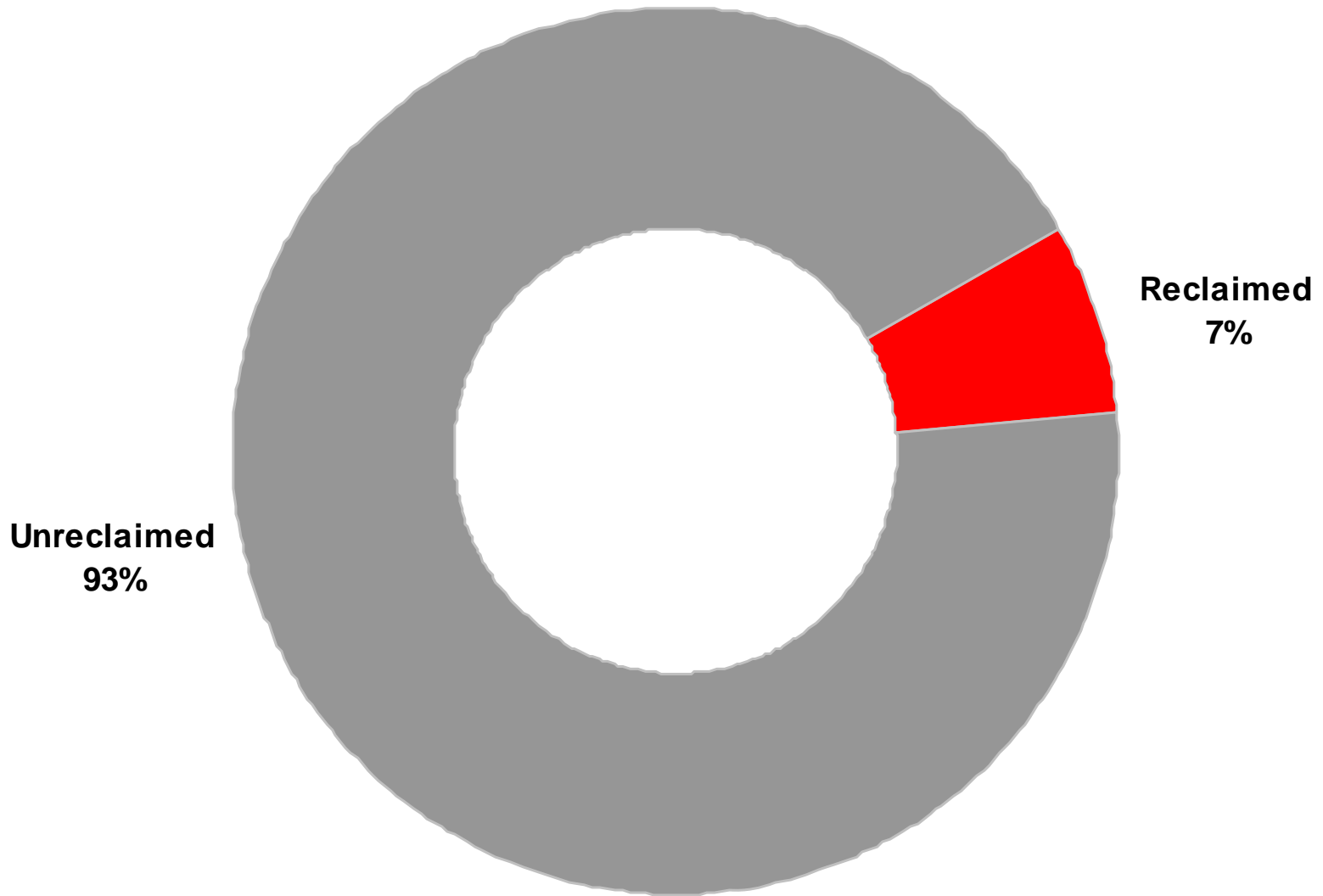
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- **Double Tax Treaties (DTTs) establish possible entitlements to a lower “treaty” rate of taxation**
- **If not optimized, cross border income may be taxed twice**
- **Optimization methods, dependent on jurisdiction**
  - Relief at Source
  - Quick Refund
  - Remedial (Long form) Reclaim
  - Combinations
- **Importance of knowledge and planning**

# An Increasing Issue

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- **Cross border investment is increasing by 16% per year**
- **Funds historically hold 25%-35% of assets cross border**
- **Increasingly funds are now being advised to invest up to 50% cross border to mitigate volatility and maximize yield**



- **Historic**

- Desk Research
- Subscriptions (e.g. IBFD)
- Agent Bank networks
- Tax Authorities

- **The New Paradigm**

- SWIFT Data Distribution Service
- e-TaxData Online

- **Advantages**

- Easy to integrate to STP systems
- Permits intra-day updates and email notifications of changes
- Leverages data used actively in the market

# Market Updates

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- **Retroactive Treaty Changes**
- **Statutory Changes**
- **New Treaties**
  - **From January 1, 2008**
- **Approved Treaties (but not effective)**
- **Pending Treaties (signed)**

# Market Updates

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## Retroactive Treaty Changes

- **United States**

- US Pension funds exemption in **Finland**, **Germany**, and **Denmark** from **January 1, 2007**

- **Montenegro**

- Has accepted terms of the income and capital tax treaty between the **Czech Republic** and the prior **Serbia and Montenegro** treaty from **January 1, 2006**

- **Cuba and Venezuela**

- From **January 1, 2006**

# Market Updates

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Statutory Changes –  
Effective January 1, 2008

- **Armenia**
  - Elimination of exemption on dividends received from Armenian sources paid to low-tax territories
- **Bulgaria**
  - Statutory withholding rate on dividends from 7% to 5%
- **Canada**
  - Eliminated withholding tax on arms-length outbound interest payments to residents of all jurisdictions
- **China**
  - Changed statutory withholding rate on dividends to 10%
- **Malaysia**
  - 2008 rate was reduced to 26% from 27% - approved budget for 2008 lowers corporate income tax rate to 25% for 2009
- **Denmark**
  - Statute of Limitations is now 3 years

# Market Updates

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New Treaties – Effective  
January 1, 2008

- **Armenia**
  - Finland, Qatar, Switzerland and Syria
- **Australia**
  - Finland and Norway
- **China**
  - Algeria and Singapore
- **Morocco**
  - Malaysia, Malta and Romania

*\*Preferential rates are available for substantial shareholders.*

# Market Updates

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New Treaties – Effective  
January 1, 2008

- **Austria and Saudi Arabia**
  - 5% rate applies to dividends - 0% rate to a government or public facility
  - 5% rate applies to interest
- **Estonia - Singapore**
  - 10% rate applies to dividends\*
- **France - Japan**
  - Reduced rate from 15% to 10%\*
- **Hong Kong - Luxembourg**
  - 10% rate applies to dividends\*
  - 0% rate applies to interest.

*\*Preferential rates are available for substantial shareholders.*

# Market Updates

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New Treaties – Effective  
January 1, 2008

- **Jordan - The Netherlands**
  - 15% rate applies to dividends\*
  - 5% rate applies to interest
- **Singapore - Qatar**
  - 0% rate applies to dividends
  - 5% rate applies to interest
  - 0% rate applies to Government Agencies

*\*Preferential rates are available for substantial shareholders.*

# Market Updates

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## Other and Upcoming

- **United Kingdom and Bosnia-Herzegovina, Croatia, Montenegro, Serbia and Slovenia**
  - The double taxation treaty between the United Kingdom and the former Yugoslavia now applies to Bosnia-Herzegovina, Croatia, Montenegro, Serbia and Slovenia
- **Austria and New Zealand**
  - Ratified a new income tax treaty which became effective on March 1, 2008
  - Withholding tax rate on dividends is now 15%
  - Withholding rate on interest payments is now 10%
  - No withholding tax on interest if the borrower, resident in New Zealand, pays the Approved Issuer Levy

# Market Updates

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## Other and Upcoming

- **India and Kuwait**

- Ratified a new treaty effective April 1, 2008
- Rate on dividend and interest payments will be 10%.
- Payments to government agencies exempt from withholding

- **India and the United Arab Emirates**

- Ratified a new protocol which enters into force on April 1, 2008
- Withholding rate on dividends is lowered from 15% to 10%

- **Turkey and Qatar**

- New treaty will become effective January 1, 2009

- **Italy**

- Approved budget for 2009 – a preferred rate will apply to corporations resident in either EU or EEA countries

# Market Updates

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## Pending Treaties

- **Australia and Japan**
- **France and Kenya**
- **Romania and Qatar**
- **Ukraine and Morocco**
- **Malaysia and Syria**
- **Luxembourg and Azerbaijan**
- **Israel and Portugal**
- **Portugal and Pakistan**

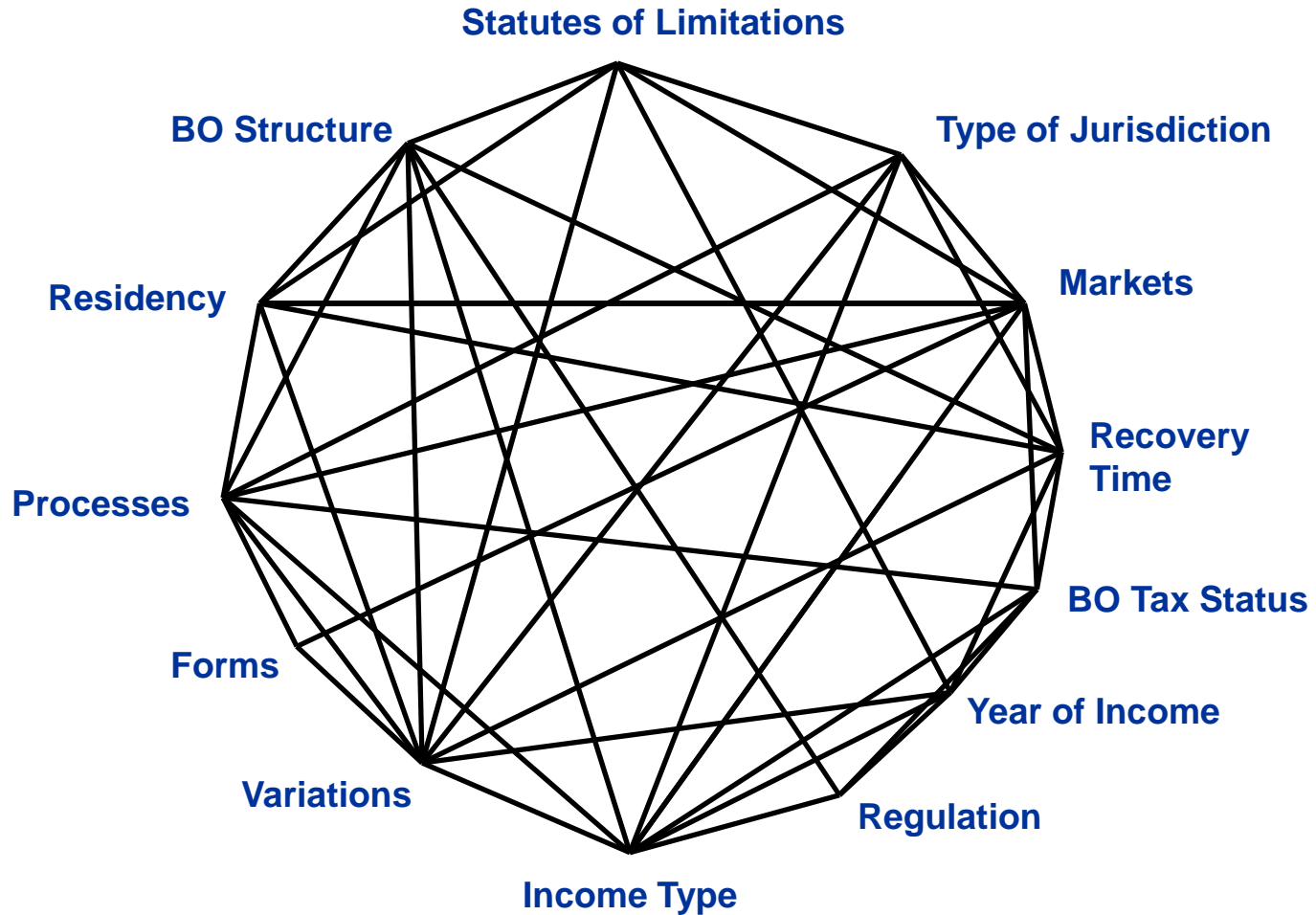
# Complex Environment

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- **Constant changes**
  - Rules
  - Statutes of Limitations
  - Rates
  - New and amended treaties
  - New security types (e.g. UK, Germany: REITs)
  - Beneficial owner definitions
- **Different languages and cultural nuances**
- **What elements must be considered?**

# Moving Parts

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# Knowledge & Planning

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- **Recognize**
- **Identify**
- **Specify**
- **Implement**
- **Resolve**

# Q&A

**Question: How do you deal with Funds which are structured offshore? Is the only way to optimize through an offshore partnership in order to go back to the original investors? Do you agree that there are no solutions for offshore corporations?**

**Answer: The answer is “It Depends.”** Offshore partnerships, depending on their structures, can be eligible for reclaim. Foreign tax authorities want assurance that funds being are going back to the underlying beneficial owners. They understand the fund to be a ‘flow-through’ entity which by itself does not have an entitlement (the ultimate beneficial owners have the entitlement). We have many clients who have vehicles set up as offshore funds. However, analysis of recoverability must be on a case by case basis, and a determination must be made as to whether we can “pierce” the fund structure and get to the ultimate beneficial owners.

**Question: Is (how is) the current situation in Europe (Lichtenstein) impacting your business advice to clients?**

**Answer: These issues are independent.** We do not advise investors how to channel their funds. Rather, we advise them to take the opportunity to maximize their legal entitlements to excess taxes withheld by cross border jurisdictions on investment income, based on international double taxation treaties. The Liechtenstein matter relates to a combination of unauthorized release of bank client (investor) identities and decisions by such investors to engage in practices that their home country authorities contend may be illegal tax evasion. Again, we don’t offer advice on the subject but the general trend seems to be that governments and tax authorities are increasingly looking to make sure that people are playing by the rules.

# Q&A

**Question: Do you compile withholding tax information on US dividend income to non-US investors?**

**Answer: Yes we do. GlobeTax maintains research on 230+ jurisdictions. Our data product, e-TaxData Online, covers all of the treaties that the US has with other markets. We have detailed market notes on these pairs of treaties.**

**Question: How many firms go out to chase the US Form 6166 to optimize withholding?**

**Answer: We do not know the answer to this question. In terms of outsourcing firms like GlobeTax that perform this service, we are not aware of any others performing this service. Many banks and brokerage firms perform this service on their clients' behalf to varying degrees of success and at varied levels of depth depending in part on client demand.**

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