

# How Foreign Taxes Hide from Pension Plan Fiduciaries



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If you attended the FPPTA's 35th Annual conference this summer, you know that the theme was "Investing in a Global Economy." The theme did not surprise me. In my role as asset custodian for pension plans, I have seen my clients increase their percentage of global investing (all worldwide securities, including those from the U.S.) and international, or foreign investing (purely non-U.S. securities). I realize that retirement plan consultants and investment managers have long recommended a mix of U.S. and non-U.S. investments for the purposes of safety and diversity. But I also note the astounding vibrancy of wealth in today's world economy. If we consider just the issue of stock dividends paid out this past spring, only \$122 billion of a total of \$263 billion were paid by companies from the U.S. Although we are by far the biggest single economy, figure 1 shows that we are not the only economy.

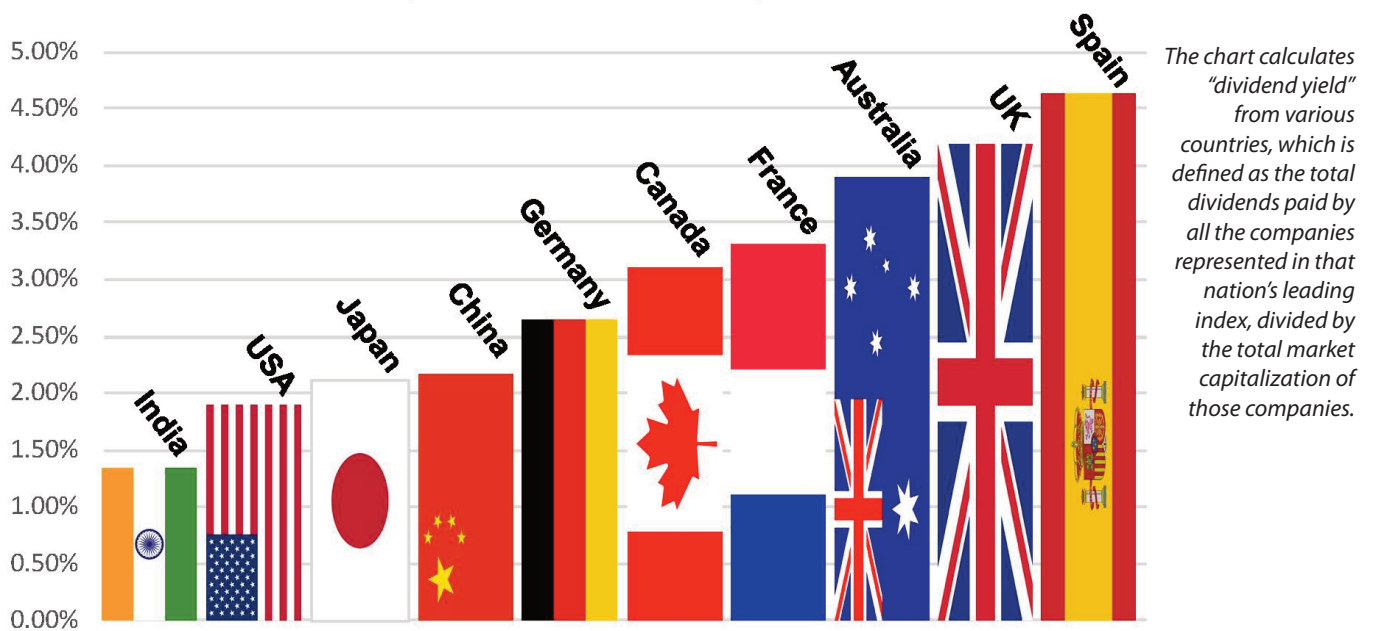
Pension plans are, more and more, attracted to finding their piece of the global market.

Foreign countries typically withhold taxes on the investment income of securities traded on their exchanges, but, as a pension fund, you may qualify as a tax-exempt entity. At the very least, you may be eligible to reclaim the difference between the statutory rate and the treaty rate. There are tax treaty agreements between the U.S. and many of the nations where pension plans invest, but every nation has a different agreement, process and timeline for reclaiming taxes paid. If the claims are made properly, your plan might receive the taxes that were withheld from non-U.S. nations. During the last few years especially, as global investment in public pension plans has increased, I have seen the gains received in pension plans that give proper attention to the task of reclaiming plan assets overpaid to a foreign government. It is important for every plan trustee and advisor to not miss any plan entitlement.

## ADRs May Also be Taxed

When you think of global investing, keep in mind American Depository Receipts (ADRs) are in this category. ADRs provide U.S. investors with the opportunity

**Figure 1:**  
Dividend Yields, Various Nations, as of 2019-06-30



The chart calculates "dividend yield" from various countries, which is defined as the total dividends paid by all the companies represented in that nation's leading index, divided by the total market capitalization of those companies.

Source: Sibilis Research

to trade in shares of a foreign company. Like a security bought on foreign exchanges, the income derived from an ADR may have had taxes withheld by its country of origin.

I have noted recently that the foreign tax implication of ADRs has surprised many of my clients. Maybe it is because “foreign investment” might seem exotic or unusual, but ADRs, as we know, are issued for some of the biggest companies who trade on U.S. markets: household names such as Nokia, Unilever and Royal Dutch Petroleum (better known as “Shell Oil”). In many cases, clients were unaware that foreign taxes had been withheld on dividends of these commonly traded securities.

### Reclaiming Foreign Taxes is Complex:

If your plan now holds or has held a foreign investment – either directly via a stock or bond, or indirectly through a domestically-traded ADR – it is possible that the plan has an unrecognized and unreported asset that should be reclaimed. You could ask your plan’s administrator, attorney, CPA or other service provider to perform the reclamation. In most cases, however, this is not the best solution. There are many technical steps unique to the global asset reclamation process. The process and paperwork will also differ for each country. Additionally, the IRS annual Certification of Tax Residency Documentation Tax-exempt Status must be filed annually.

The reclamation process is complex because your plan’s portfolio should be analyzed to identify all aspects of any foreign tax collected, including the amount collected, when it was collected, in which country; if there is a tax treaty and, if so, what are the current terms; and, as well, a record must be made of all forms to be filed. Of course, language barriers abound during this process. Some jurisdictions will reject the claim for a simple error, with no opportunity to amend or refile. Every nation also has a different time frame within which to reclaim taxes.

### Finding the Best Solution:

Based on all these challenges, I recommend that a pension plan board discuss global/foreign tax reclamation with their investment consultant and their custodial services provider. It is likely that your best bet will be to hire a specialist with the necessary technology and topical knowledge of all global markets, one who manages the process from beginning to end. Global

tax recovery firms are compensated on the actual amount recovered, at least in my experience. In my mind it is far better to pay a specialist a percentage of a reclaimed tax than to never have reclaimed it at all.

Furthermore, by engaging a firm to handle global tax reclamation, you are being proactive. Your active attention to global tax reclamation helps meet your responsibilities as a plan fiduciary. You want to know that you are not leaving any funds behind.

If I can be of any help to you and your plan, please feel free to contact me. I am always happy to be of service to our great organization and its members.

### About the Author:

*Karen Russo is an honors graduate of Florida Bankers Association Trust and Graduate School, and a graduate of the Cannon Financial Institute Employee Benefit School. She has been awarded the Retirement Plans Associate (RPA) designation, and is a Certified Public Pension Trustee (CPPT). Beginning her career in 1986, Ms. Russo joined Salem Trust Company in 2000, where she currently serves as Senior Vice President. She can be reached at [Karen.Russo@SalemTrust.com](mailto:Karen.Russo@SalemTrust.com).* ■

The advertisement features a group of approximately ten diverse professionals in business attire standing behind a large white sign. The sign contains the text "Asset Custody: It's Our Only Business" in orange and black. Above the group, the text "ST SALEM TRUST COMPANY" is displayed in white on a teal background, with "A Division of TMI Trust Company" written below it. The background of the advertisement shows several smooth, light-colored stones on a sandy beach, with one stone being a distinct blue color.