



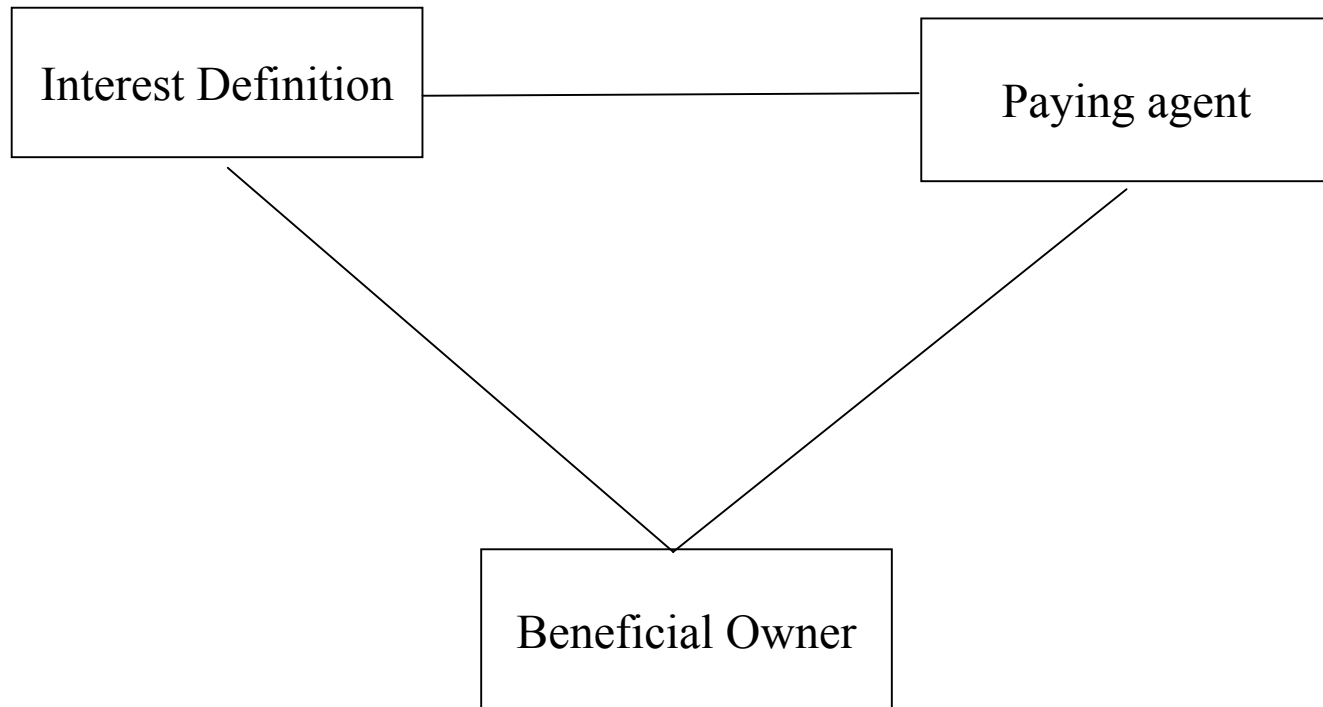
# **Savings Directive**

**February 2003**

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# Reminder of some important features of the Directive

## 1. The Bermuda Triangle



# Reminder of some important features of the Directive

## 2. Objectives of the Directive

### a. Text of Art 2 of the Directive

- « **Interest payments** »
- made in **one** Member State
- to residents (individuals and beneficial owners) in **another** Member State
- shall **be made subject to effective taxation** in accordance with the national laws of the State of residence

### b. Consequences

- ⇒ **Objectif to be achieved by exchange of information (+ transition period of 7 years for withholding tax countries)**
- ⇒ **Directive does not treat savings achieved in the country of residence; only cross-border savings covered**
- ⇒ **No uniform regulation within EU**
- ⇒ **Enabling Act?**

# Reminder of some important features of the Directive

## 3. Territorial Application

### a. Example

#### Covered case



### b. Consequences

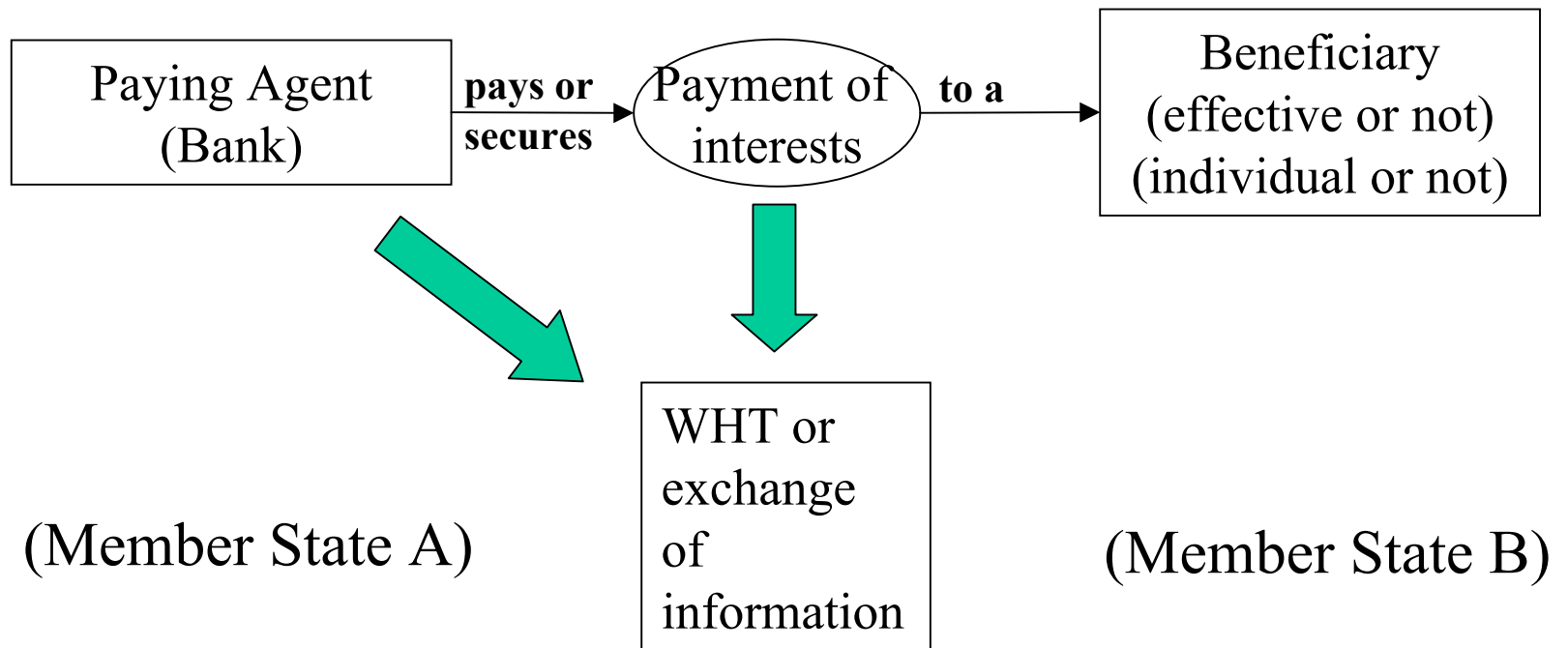
#### Non covered cases



# Reminder of some important features of the Directive

## 4. Payment of interest

### a. Definition



### b. Consequences

Paying agent = « the **last** in the chain »



# Reminder of some important features of the Directive

## 6. Paying Agent- Two definitions

### a. General definition

- Any economic **operator**
- who pays interest to / secures the payment **for the immediate benefit** of beneficial owner
- as debtor of debt-claim or as charged operator

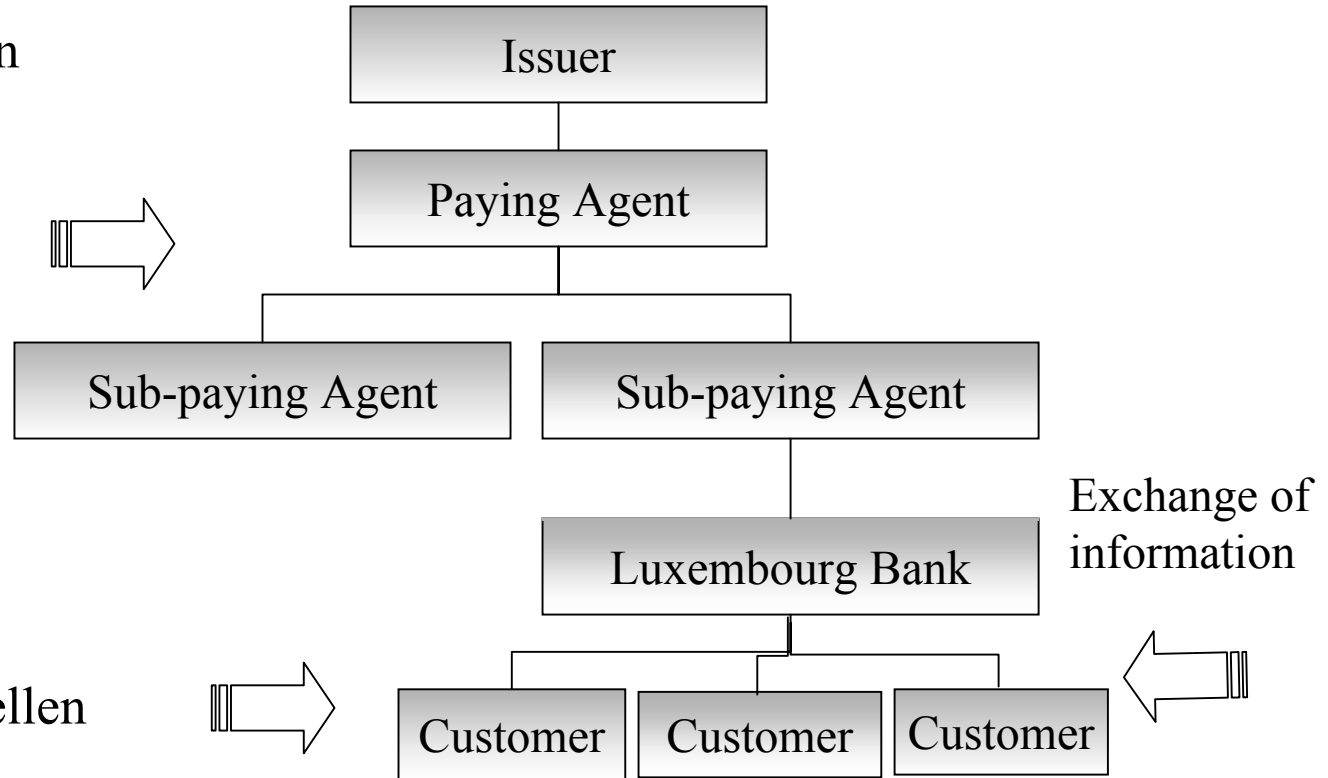
### b. Special definition: « Reverse charge »

- Any entity established in Member State
- to which interest is paid / for which interest is secured for the benefit of the beneficial owner:
- **except** (« test »)
  - Legal person
  - Any other entity the profits of which are normally taxed (even if in the hands of the partners)
  - UCITs according to Directive 85/611/EEC or Option

# Reminder of some important features of the Directive

## 7. Paying agent

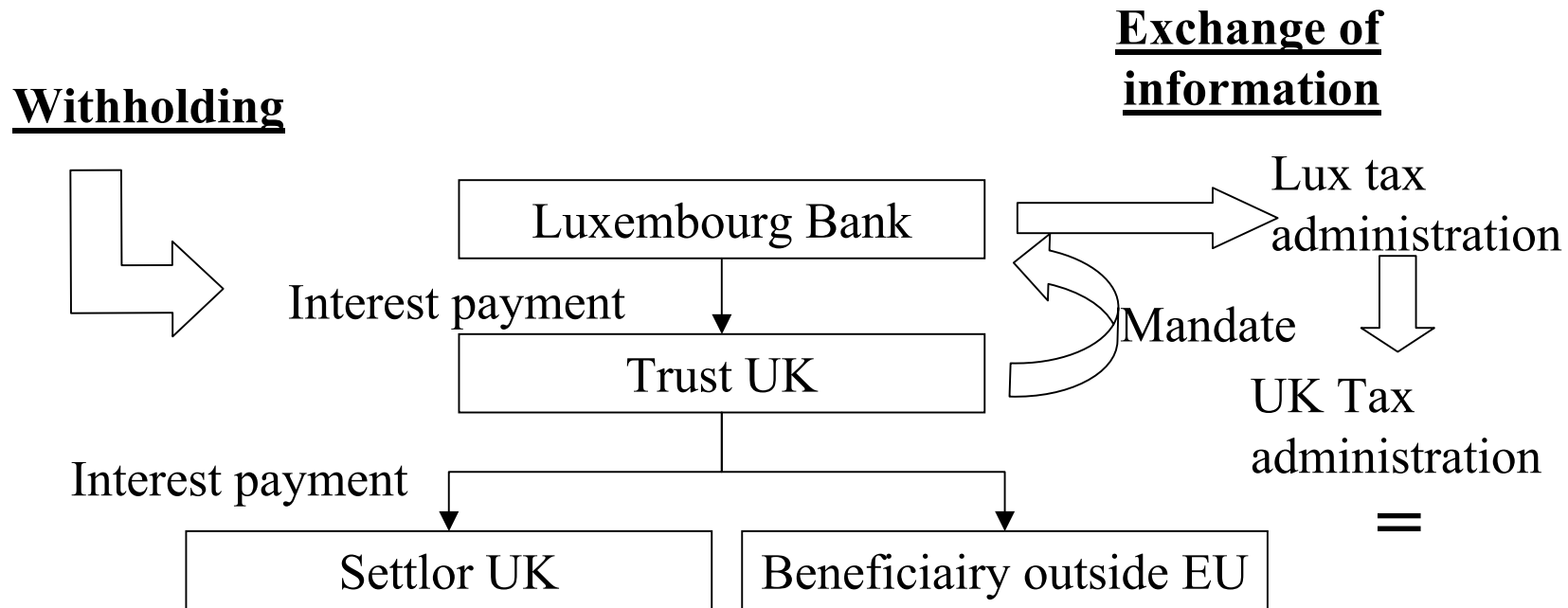
« Emittenten  
steuer »



« Zahlstellen  
steuer »

# Reminder of some important features of the Directive

## 8. Other Entities



- Le trust need to apply withholding at **entry** / exchange of information

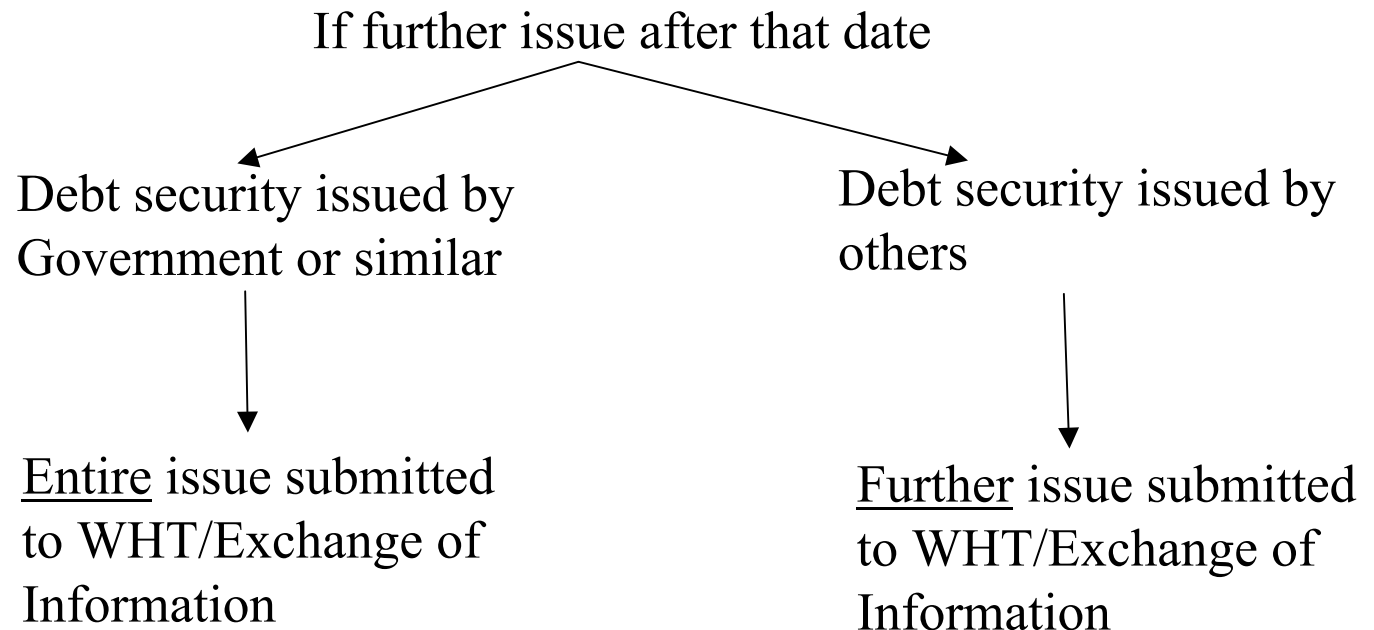
- Lux Bank gives information or, **if no mandate of trust**, applies withholding

- The trust does not apply withholding at entry / no exchange of information

# Reminder of some important features of the Directive

## 9. Interest temporarily not covered

- Bonds
- Other negotiable debt securities issued before March 1, 2001/prospectus approved before that date if no further issue made on or after March 1, 2002



# Reminder of some important features of the Directive

## 10. Products not covered

New financial instruments and insurance / pension products

- New financial instruments if not covered by the definition of interest
- Insurance products
- Others (?)

# Reminder of some important features of the Directive

## 11. Paying agent/ OPC / Investment funds outside EU

- a) The Directive **applies** to each **paying agent** established on **the territory of the EU** ( not paying agent outside of EU)
  
- b) The Directive applies to Investment funds **established outside of the EU**, if the paying agent ( and the beneficiary) are established on the territory of the EU

# Reminder of some important features of the Directive

## 12. Special rules for withholding countries

- Exchange of information procedure based on explicit authorization (see procedure « qualified intermediary »)
- « Freistellungsbescheinigung » (as in Germany), exemption certificate valid 3 years delivered by the tax administration of the country of residence.

# What can KPMG offer to you

- 1. Identify entity products covered / not covered**
- 2. Identify persons covered / not covered**
- 3. Know your customer rules**
- 4. Set up rules when you are paying agent / not paying agent**
- 5. Withholding / exchange of information**