

Netherlands

# Netherlands Publishes Regulations for Refunds, Exemptions for Conditional Dividend Withholding Tax under Tax Treaties

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Report from Dr René Offermanns, Principal Associate, IBFD

The government has issued a decree outlining the conditions for refunds of (or exemptions from) the conditional withholding tax (WHT) on dividends.

## Exemptions

The request for an exemption from tax withheld under the Withholding Tax Act, subject to meeting conditions outlined in the relevant tax treaty, must include:

- the name, address, place of establishment and corporate registration number (RSIN) of the withholding agent;
- the name, address and place of establishment of the non-resident entity receiving the income;
- information regarding the attribution of the dividends to a permanent establishment of the non-resident entity (if applicable);
- information regarding the application of a treaty article similar to article 10(1),(2) and (3) of the MLI or article 29(8) of the OECD Model (2017), provided that article 10 of the MLI applies to the treaty, or the treaty includes a similar provision; and
- information about any conditions not previously mentioned but stipulated in the treaty as requirements for obtaining the benefits associated with the request.

A withholding agent, exempt from the duty to withhold tax, must, within 1 month of the conclusion of the calendar year in which dividends were disbursed, provide an overview of the total amount of dividends paid to the non-resident entity. This summary must encompass the entity's name, address, state of residence and the specific dates of payment.

## Refunds

Where conditional WHT on dividends has been withheld on dividends paid by a withholding agent to a non-resident entity resident in a country with which the Netherlands has a tax treaty in place, that entity may request a refund of excess WHT. This scenario arises when the treaty rate is lower than the rate of the conditional WHT rate. The non-resident entity must fulfil the conditions specified in the treaty to qualify for the reduced WHT rates. The refund, if approved, will be disbursed to the withholding agent.

The withholding agent must submit a request for exemption or refund to the Tax Administration/Arnhem office, Withholding Tax Team, PO Box 9007, 6800 DJ Arnhem within the time limit set in the treaty.

The [Decree](#) (No. 2023-21489 of 8 November 2023) was published in Official Gazette No. 29436 of 15 November 2023 (in Dutch).

*Note:* As of 1 January 2024, the conditional WHT on dividends will apply to payments made to related companies located in low-tax jurisdictions. The rate for the conditional WHT is equal to the current top corporate income tax rate of 25.8%.

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