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New dividend withholding tax exemption for dividends paid by Belgian institutional investment companies to non-resident investors

Until recently, only dividends distributed by Belgian **public** and **real estate** investment companies to non-resident investors enjoyed a domestic withholding tax exemption. This brought unequal treatment when compared to institutional investment companies, for which only (deemed dividends further to) share buy-backs qualified for withholding tax exemption.

In an attempt to increase Belgium's attractiveness for institutional investors, Belgian legislation has recently extended the above mentioned withholding tax exemption to dividends distributed by Belgian **institutional** (i.e. non-public) investment companies.

In summary, a dividend withholding tax exemption is now available for dividends distributed by all regulated investment companies in Belgium, provided the following conditions are cumulatively met:

- The dividends distributed do not originate from Belgian source dividends; and
- The beneficiary qualifies as a so-called "non-resident investor", i.e. a foreign resident individual or legal entity which does not deploy its movable funds (generating Belgian source income) in a professional activity exercised in Belgium, or in other words, does not exercise an activity in Belgium leading to the allocation of these movable funds to a Belgian establishment; and
- The beneficiary provides an attestation confirming amongst others that he is the relevant shares' owner or usufructuary.

The new withholding tax exemption is available for dividends paid or attributed as of 1 January 2013.

This new measure offers not only a long-expected and fair equal treatment for all Belgian (regulated) investment companies, it may also increase Belgium's general attractiveness for institutional investors, thereby also capitalising on the specific tax regimes (corporate income tax, stock exchange tax and annual subscription tax) applicable to Belgian institutional investment companies.

Contact

Any questions concerning the items in this publication? Please contact your usual tax consultant at our Deloitte office in Belgium or:

- Brecht Sohier, bsohier@deloitte.com, + 32 2 600 67 60
- Wim Eynatten, weynatten@deloitte.com, + 32 2 600 67 59

- Stéphane Jourdain, sjourdain@deloitte.com, + 32 2 600 66 80

For general inquiries contact:

- bedeloittetax@deloitte.com, + 32 2 600 60 00

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1831 Diegem
Belgium

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