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New circular letter on dividend withholding tax exemption for non-resident pension funds

Before the entry into force of the Royal Decree of 20 December 2012, all non-resident savers could – based on Art. 106, § 2 RD/ITC – benefit from a withholding tax exemption on Belgian source dividends (including income from so-called “missing coupons” under stock lending and repo arrangements) under the cumulative conditions that they were not engaged in a commercial activity in Belgium and were tax-exempt in their country of residence.

The way in which this exemption was initially conceived also allowed individuals residing in certain tax haven jurisdictions (e.g. Monaco) to benefit from the exemption. As this was contrary to the Government’s initial intention, the rules of Art. 106, § 2 RC/ITC were further tightened by the Royal Decree of 20 December 2012. The withholding tax exemption (for dividends and income paid or attributed as of 7 January 2013) was henceforth limited to non-resident pension funds.

On 25 July 2013, the Belgian tax authorities issued the circular letter Ci.RH.233/625.237 (AAFisc Nr. 31/2013) commenting on the changes that were made to Art. 106, § 2 and §4 RD/ITC and Art. 117, §2 RD/ITC. This circular letter provides further clarifications in relation to:

- The beneficiaries which can henceforth no longer benefit from the exemption;
- The (non-) application of the anti-abuse measure of Art. 106, § 4 RD/ITC in case the non-resident pension funds is contractually obliged to retrocede the dividend income;
- The formalities to claim the withholding tax exemption and the wording on the attestation to be provided to the income debtor based on Art. 117, § 2 RD/ITC.

Click ([Dutch](#) | [French](#)) to read the circular.

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