



Global Employer Services Reward & Mobility Alert

Change to double tax relief for Dutch tax resident taxpayers with a director mandate in a Belgian company

As from 1 January 2023, Dutch tax resident taxpayers with a director mandate in a Belgian company only will be able to claim relief from double taxation on the directors' fees received via the tax credit method, not the exemption method. Depending on the specific circumstances, this may lead to an increase in a director's overall tax burden.

Background

Article 16 of the 2001 Belgium-Netherlands tax treaty provides relief from double taxation on directors' fees via a credit method, i.e., any Belgian tax paid on the directors' fees is deducted from the Dutch tax payable, limited to the Dutch tax otherwise due on the same income.

However, to align the tax treatment of employees and directors, the Dutch state secretary of finance on 18 July 2008 issued a decree (No. CPP2007/664M) allowing the exemption method to be applied on directors' fees instead of the credit method provided in a number of the Netherlands' tax treaties (subject to certain conditions). For more information, see the Deloitte Netherlands [Tax Alert](#) of 17 July 2022.

As a result of the decree, the Netherlands provides relief at the average Dutch tax rate, regardless of the level of taxation in the jurisdiction of residence of the entity of which the taxpayer is a director.

Changes as from 1 January 2023

As from 1 January 2023, the tax exemption method may no longer be applied where the relevant tax treaty prescribes the credit method.

As a result, it will only be possible to claim tax relief (in the form of a credit) in the Netherlands for the foreign taxes paid capped at a maximum of the Dutch tax payable on the directors' fees.

It may be appropriate to reassess the tax situation of directors who will be affected by this change of policy.

Contacts

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