

Operational Tax News

Denmark – New model allowing tax reclaim on investment funds

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Deloitte Solutions

On 12 June 2017, the Danish Government announced its intention to introduce a new model for withholding tax on dividend distributions. No draft proposal has been released yet and no information related to the practical implementation of this model has been announced.

New Model

The model is a result of recommendations from a working group which following the scandal with unlawful repayments of Danish withholding tax has examined the current rules and practice in force.

With this change, banks acting as paying agents will be authorized to apply the reduced treaty rate at source provided that the investor is adequately documented. Investors will thus receive the dividend payment on the pay date with the most favorable rate of tax available to them, rather than being taxed at the highest rate and having to file a post-payable tax reclaim to get back the amount withheld. Investor documentation received by the banks can be relied on for more than one year.

Foreign investors who did not provide appropriate documentation at the time of dividend distribution will no longer be able to claim a refund of the excess dividend withholding tax afterward.

Impact

According to the new model, the system with repayment/recovery of withholding tax on dividends will be abolished.

Instead, relief at source shall be applied upon distribution of dividends by the paying agent, based on the documentation provided by the investors.

Current Practice

Currently, a 27 percent domestic dividend withholding tax is imposed on all dividend distributions to foreign investors. With a double tax treaty applied, the foreign investor has the right to request a refund for the excess dividend withholding tax.

From March 2016, the refund of excess dividend withholding tax has been restricted due to abuse. An immediate refund is only paid if it is certain that there is no abuse because the applicant of the refund submitted sufficient documents.

Other Considerations

It remains to be seen whether and how the new model will be affected by the judicial proceedings currently engaged against the Danish tax authorities. As a reminder, the withholding tax applied on Danish source dividends paid to foreign funds, such as Luxembourg UCITS SICAVs, is currently being challenged before the Court of Justice of the European Union (CJEU case C-480/16) on the basis of the perceived discrimination relative to the equivalent Danish funds that can obtain a tax exemption at source.

If you have any questions regarding the above, please do not hesitate to contact us.

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