



**Russian withholding
tax refund**

Tax & Legal

If you or your clients invested in Russian securities and are entitled to a substantial dividend or interest income, there is a chance that you overpaid your taxes and may qualify for a tax refund

Background



Investors may apply a reduced tax rate for their interest and/or dividend income, depending on the conditions set by the Russian Tax Code or applicable Double Tax Treaties. Calculations of a standard Russian rate or the standard reduced Double Tax Treaty rate, as well as submission of claims on tax can be refunded, should be made by investors themselves within three calendar years, following the year in which it was withheld. Therefore, investors may often qualify for a refund up to 10-20% income received.



According to the Russian tax authorities, they are ready to reimburse overpaid taxes, if a full package of documents confirming the income payment chain and the investor's rights to the income is submitted.



The Russian withholding tax rate is set at 15% on dividends and 20 percent on interest. Effective from 1 January 2014, the duties of the tax agent for WHT purposes were transferred to the local Russian custodian or, in a limited number of cases, to the fiduciary, broker or issuer.



The tax refund practice in Russia is not well-developed: the tax legislation does not provide for a specific list of documents to be collected and requirements to be met. For these reasons, the process can be lengthy and sometimes fruitless. However, the trend is reassuring: the number of successful refund claims and positive court decisions is growing.

Our practice



We are engaged in a number of tax refund projects and have had excessive Russian withholding tax successfully refunded to our clients after it was charged on Russian shares and/or depositary receipts for shares, including such blue chips as **Gazprom, Gazpromneft, Sberbank, MTS, Novatek, TMK, Magnit, Severstal, Sistema, Lukoil, and VTB.**



We have a solid experience of managing the whole process, which is very time-consuming and burdensome, so our success rate today is very high. For instance, in a recent case, we facilitated the refund of over RUB 7 million in excessively withheld tax on Lukoil's depositary receipts for Central Bank located in Asia, to whom we refund taxes on annual basis.



We are developing our tax refund practice in Russia and abroad now. We have had some positive experience with our global clients in this area and look forward to bringing more value to a wider client range.

Tax refund steps

01 Preliminary assessment

- Determine whether the investor is entitled to a tax refund;
- Walk the investor through the refund procedure;
- Analyse the current court practice;
- Determine the potential challenges and required documents;
- Analyse the structure of ownership and income distribution.

02



Collecting documents

Preparing the necessary documents might involve translation and other procedures required to legalise the foreign documents in Russia. Based on our experience, the documents that confirm income flow and beneficial ownership of income may include, but are not limited to:

- A certificate of tax residence and other documents confirming the investor's entitlement to double tax treaty benefits;
- Copies of tax returns (tax calculations) for the income paid by the issuer, creditor, and depository, acting as tax agents;
- Copies of documents, confirming the cash flows from one party of dividend/interest distribution chain to another (e.g. extracts from financial statements, bank payment orders, etc.);
- Copies of payment orders confirming the discharge of tax liabilities on dividend/interest income;
- Copies of documents confirming the relations among the parties of the dividend/interest distribution chain;
- Representation letters from each party of the dividend/interest distribution chain.

This list is not exhaustive, as the tax refund practice in Russia is just developing and the Russian tax authorities may require additional documents to provide a tax refund. We are assisting our customers throughout the process of collecting documents and submitting them to the tax authorities.

03 Preparing and filing tax reclaim application and cover letter

Well-prepared tax reclaim application and cover letter (which describes in detail the taxable income flow) are key to success in the tax refund process. A package of documents to confirm the existence of the described income flow should be formed, too. The confirming documents should meet certain requirements, in particular:

- Copies of documents should contain the seal (stamp) of the issuing organisation, date, full name of the person issuing the copy, his position and signature;
- Pages of the documents should be numbered, and the document should be bound;
- A Russian translation should be attached to the documents in a foreign language.

04

Communicating with Russian tax authorities

We will communicate with the Russian tax authorities on behalf of the investor to:

- Follow-up on/clarify the issues raised by tax officers at each stage of the process;
- Prepare and submit additional documents and explanatory letters, if requested by the tax authorities;
- Resolve the technical issues arising during the transfer of the refunded amount to the ultimate beneficiary's account.

Our services and our team

Our services

Deloitte has an experienced, strong tax refund team that provides high-quality services. We will be happy to offer a turnkey solution for claiming a refund of the overpaid Russian withholding tax, drawing on our track record of success and in strict compliance with the legislative requirements.

Our team

For more information on the withholding tax refunds and our services, please contact:



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