

# FISCAL GUIDE

NETHERLANDS

MARCH 2021



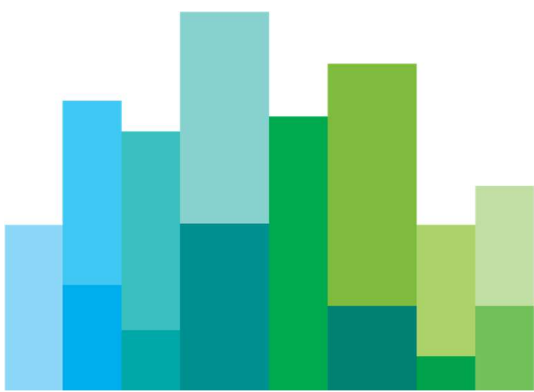
**MONTETITOLI**

A EURONEXT COMPANY

# TABLE OF CONTENTS

- 1 DUTCH MARKET ..... 3**
- 1.1 Securities ..... 4**
- 1.2 Standard Refund procedure (for Equity)..... 5**
  - 1.2.1 Eligibility criteria ..... 5
  - 1.2.2 Documentation requirements..... 5
  - 1.2.3 Deadline for receipt of documentation..... 5
- 1.3 Special Standard Refund procedures (for Equity) ..... 6**
  - 1.3.1 Dutch Exempt Entities ..... 6
  - 1.3.2 Dutch Pension Funds ..... 6
  - 1.3.3 Dutch Legal Entities Not Subject to Dutch Corporate Income Tax ..... 7
  - 1.3.4 US Residents ..... 7
- 1.4 Exemption Procedures (for Equity) ..... 8**
  - 1.4.1 Supranational Organizations ..... 8
  - 1.4.2 European Investment Bank ..... 8
  - 1.4.3 EU/EEA Tax Exempt Entities ..... 9
  - 1.4.4 Non EU/EEA Tax Exempt Entities..... 9

# DUTCH MARKET



## 1.1 Securities

Below you find the types of securities involved and the procedure/s in place.

Securities	Relief at source	Quick refund	Standard refund
<b>Bonds</b>	Not applicable	Not applicable	Not applicable
<b>Equities</b>	Not available	Not available	Available

### Important notice:

On the proceeds of Dutch interest or Dutch redeemable bonds, no taxes are withheld.

No holding restrictions.

### Equities

Securities	Procedure	Eligible subjects	Required documents	Deadline	Appendix
Equities	Standard Refund	Resident in a country that has concluded a DTA with The Netherlands (Annex A and B);	NL – MT552	45 days before the Dutch Authorities deadline (5 years after the end of the year in which the dividend was paid)	Appendix 1
		Not resident in Thailand and Morocco (because of the agreement with The Netherlands establish a withholding tax rate of 25%)	NL – Divident Statement		Appendix 6

## 1.2 Standard Refund procedure (for Equity)

### 1.2.1 Eligibility criteria

Only final beneficiaries residing in countries with a Double Taxation Treaty (DTT) with the Netherlands providing with a tax limitation rate inferior to 15%, or Beneficiaries that can reclaim Dividend Tax based on the Dividend Tax Act (such as European Union tax exempt entities) are entitled to a tax refund.

The list of the countries with a DTT in place with The Netherlands is provided on our website.

### 1.2.2 Documentation requirements

In order for the investor to obtain the refund, appropriate original tax reclaim forms must be duly completed, signed by the final beneficiary, stamped by the local tax authorities of the beneficial owner and then be sent to our tax team.

To apply for a Standard Refund, the client should send us:

1. **Standard refund request (NL - MT552)**, providing details on the request
2. **original copies of the relevant dividend statements (dividend note)**: a credit advice, as proof of the final distribution of the dividend (net of withholding tax). It must be either original, or a copy authenticated with authorized signature or stamp.

The forms at point 2 need to be generated in 3 copies:

- the first for the DTA;
- the second for the tax authorities of the residence country of the income's beneficiary;
- the third for the income's beneficiary.

Appropriate tax form are available on the website of the Dutch Tax Agency following this link:

<http://www.belastingdienst.nl/wps/wcm/connect/bldcontenten/belastingdienst/individuals/>

### 1.2.3 Deadline for receipt of documentation

The original tax forms and dividend statements must be received by our tax team within the deadline:

All countries have different periods over which dividend can be claimed, varying from 2 to 6 years from the end of the calendar year in which the dividend was paid (the statute of limitations for filing the requests is separately determined by the applicable Double Taxation Treaty).

It is strongly recommended to send the documentation (forms + dividend statements) as soon as possible after the payment date **and no later than 45 working days before the DTA's deadline.**

Regardless of the applicable statute of limitations, the DTA use a five year deadline on all reclaims on income on a discretionary basis.

This means that a dividend tax reclaim request that was filed after expiration of the statute of limitations stated in the relevant Double Taxation Treaty, but within the 5 years term, will be handled by the DTA on a discretionary basis, and in case of rejection no appeal will be possible as there is no legal basis for the 5 year term.

As a consequence, we strongly advise to respect the statutory deadline stated in the applicable Double Taxation Treaty. Requests received after the official deadline but before the end of the 5th year following the year in which the income was paid, will be submitted to the DTA on a reasonable effort basis.

## 1.3 Special Standard Refund procedures (for Equity)

### 1.3.1 Dutch Exempt Entities

Dutch exempt entities can also file their reclaims via the standard refund procedure.

### 1.3.2 Dutch Pension Funds

Dutch residents such as Pension funds are exempted of withholding tax on any dividend payment. Effectively, they can reclaim all withheld Dutch Dividend Withholding Tax with the Tax Authorities .

Dutch exempt entities reclaims can also be filed via the standard refund procedure with the Tax Authorities. Provided that a first reclaim has been accepted by the Tax Authorities, all subsequent filings can be made through the electronic tax filing procedure.

### 1.3.3 Dutch Legal Entities Not Subject to Dutch Corporate Income Tax

Dutch legal entities, which are not subject to Dutch corporate income tax such as governmental corporate bodies or foundations (“stichtingen”) and do not run an enterprise, can claim a refund of the whole amount of dividend withholding tax withheld by the dividend paying company.

However, the shares, on which the dividends are paid, need to be kept by such Dutch legal entity at least three months after the actual dividend distribution.

### 1.3.4 US Residents

#### 1.3.4.1 US PENSION FUNDS

Trusts, companies or other organizations that are:

- US fiscal residents;
- constituted and operated exclusively to administer or provide benefits under one or more funds or plans established to provide pension, retirement or other employee benefits in accordance with article 35 of the Double Taxation Treaty between the Netherlands and the United States of America, signed on 18 December 1992

may obtain exemption from Dutch withholding tax through a reclaim procedure.

The required documentation is the same as for the Quick Reclaim procedure.

#### 1.3.4.2 US TRUSTS, COMPANIES OR OTHER ORGANIZATIONS

Trusts, companies or other organizations that are:

- US fiscal residents; and
- Operated exclusively for religious, charitable, scientific, educational or public purposes; and
- Exempt from tax in the U.S. (under article 36 of the tax treaty) may obtain exemption from Dutch withholding tax through a reclaim procedure.

Reclaims can only be filed directly with the DTA through the same standard refund procedure in use for US pension funds.

#### 1.3.4.3 LIMITED (LIABILITY) PARTNERSHIP (LP OR LLP)

For US LP or LLP the standard reclaim procedure applies.

We can file a request with the DTA for authorization to reclaim in the name of a Limited (Liability) Partnership (LP or LLP).

The request has to be filed with the relevant 6166(s) and a participation letter.

The DTA can then grant an authorization number to the Partnership and reclaims can be filed in the name of the Partnership (in all reclaims the authorization number should be mentioned).

## 1.4 Exemption Procedures (for Equity)

### 1.4.1 Supranational Organizations

Certain supranational organizations are entitled to exemption from Dutch withholding tax by applying through the standard refund procedure.

The required documentation is:

- a free format letter requesting refund of Dutch withholding tax ;
- original copies of the relevant dividend notes.

The first reclaim should be accompanied by documents proving the supranational status of the entity. Upon approval, the DTA will provide an approval number that needs to be mentioned in all following communications with the DTA.

#### 1.4.1.1 DEADLINE FOR RECEIPT OF DOCUMENTATION

To be effective, the documentation must be received by our tax team **as soon as possible after the payment date, and not later than 45 working days before the tax authorities' deadline (five years from the end of the calendar year in which the dividend was paid).**

If the required documentation is not provided on time, no tax reclaim can be processed.

### 1.4.2 European Investment Bank

Exemption applies to the European Investment Bank.

The European Investment Bank is exempt from withholding tax applied on dividends distributed by a company situated in the Netherlands.

This exemption is granted in the Netherlands by way of a refund of the tax withheld and is based on article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities and the article 3 and 22 of the Protocol to this treaty.



### 1.4.3 EU/EEA Tax Exempt Entities

Non-domestic pension funds and other exempt entities established in the EU or EEA are entitled to exemption from Dutch withholding tax by applying the standard refund procedure.

They need to fulfill the following conditions:

- They are recognized as an exempt entity by their domestic tax authorities ;
- They would also be recognized as an exempt entity according to the Dutch fiscal legislation.

The required documentation is:

- A certification from the entity's local tax authority proving the civil and fiscal status of the legal entity
- Original copies of the relevant dividend notes
- The first reclaim request should also be accompanied by an extract of the articles of association of the entity. This extract should clarify the objectives of the entity. The entity should be non-profit; otherwise it would not qualify as an exempt entity under Dutch law.

#### 1.4.3.1 DEADLINE FOR RECEIPT OF DOCUMENTATION

The statutory deadline used by the DTA for reclaims such as these, i.e. based on the Dutch Dividend Act, is 5 years; It is strongly recommended to send the documentation (forms + dividend statements) to our tax team as soon as possible after the payment date and **no later than 45 working days before the DTA's deadline.**

### 1.4.4 Non EU/EEA Tax Exempt Entities

As per January 1st 2012 the exemption that was already in place for European Union and European Economic Area based pension funds and other exempt entities has been extended to those established in non EU or EEA countries.

The extension of tax exemption is applicable provided that the following requirements are met:

- they are the effective beneficial owners of the dividends;
- they are recognized as exempt entities by their tax authorities (i.e. they are not subject to corporate income tax in their country of establishment);
- they are also recognized as an exempt entity according to Dutch fiscal legislation (i.e. they would also not be subject to corporate tax if they were resident in the Netherlands);

- they are established in a country having signed a Tax Treaty or Tax Information Exchange Agreement (TIEA) with the Netherlands that meets the international standards. Alternatively, countries where the OECD WABB treaty (Convention on Mutual Administrative Assistance in Tax Matters) has become effective also qualify;
- the dividends are derived from portfolio investments.

The required documentation is:

- A certification from the entity's local tax authority proving the civil and fiscal status of the legal entity
- Original copies of the relevant dividend notes
- The first reclaim request should also be accompanied by an extract of the articles of association of the entity. This extract should clarify the objectives of the entity. The entity should be non-profit; otherwise it would not qualify as an exempt entity under Dutch law.

#### **1.4.4.1 DEADLINE FOR RECEIPT OF DOCUMENTATION**

The statutory deadline used by the DTA for reclaims such as these, i.e. based on the Dutch Dividend Act, is 5 years; It is strongly recommended to send the documentation (forms + dividend statements) to our tax team as soon as possible after the payment date and **no later than 45 working days before the DTA's deadline.**



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