

Exempted Investment Institutions

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The Netherlands has three favorable tax regimes for investment funds:

- the tax transparent mutual fund (fonds voor gemene rekening, "FGR");
- the fiscal investment institution (fiscale beleggingsinstelling, "FBI"); and
- the exempted investment institution (vrijgestelde beleggingsinstelling, "VBI").

This fact sheet provides a high level overview of the Dutch tax regime for an exempted investment institution and the conditions that have to be met if an investment fund is to qualify as an exempted investment institution.

General

Investment funds that are organized in a corporate form (NV or SE) or in the non-corporate form of an open mutual fund (open FGR) can opt to be exempted from corporate income tax in the Netherlands. A mutual fund is open if its participations are freely marketable. This is considered to be the case if the participations can be transferred to individuals and entities other than:

- the investment fund itself; and
- relatives connected by blood or affinity in the direct line of the participant.

Furthermore, this transfer must be possible without the permission of all its participants having to be obtained (in advance).

An exempted investment institution is exempt from corporate income tax and is not required to withhold or remit dividend withholding tax on dividends paid.

In principle, an exempted investment institution cannot invoke tax treaties concluded by the Netherlands, nor can it claim a credit or refund from the Dutch Revenue for dividend withholding tax and foreign withholding tax withheld on dividends and interest income it receives.

An investment fund can be designated as an exempted investment institution upon request. A request must be submitted before the end of the first financial year for which the designation is required.

Conditions

In order to obtain and retain the designation of an exempted investment institution, the following conditions must be met:

Firstly, the objective of the investment fund as well as its actual business operations should consist of the (passive) investment of capital. The investments made by an exempted investment institution are limited to investment in financial instruments (e.g. listed shares, bonds, options). Direct investments in real estate and mortgages are excluded. Investments in tax transparent mutual funds that invest in Dutch real estate are also excluded. However, it is possible to invest in non-transparent investment funds that invest in Dutch real estate.

The investment fund should be (semi) open-ended. This means that the fund maintains a policy of repurchasing its own shares if they are directly or indirectly offered for sale by its investors. Risk spreading should also be applied. This requirement is substantively verified, which means that a fund-of-funds, a feeder fund, or a hedge fund can also, in principle, be an exempted investment institution.

An exempted investment institution is not subject to any conditions with regard to its investors, debt financing, or profit distribution.

If an exempted investment institution does not meet one or more of the aforementioned conditions, it will lose its status designation as such with retrospective effect to the beginning of the financial year. This means that corporate income tax will be due on results achieved after the loss of its exempted designation.

VAT

Asset management services provided under a segregated mandate are generally subject to VAT unless this mandate relates to funds brought together by investment funds, in which case a VAT exemption is available. An exempted investment institution is typically used for asset pooling purposes. Asset pooling refers to the joint investment by multiple investors in a single portfolio of assets (the pool). One of the major benefits of asset pooling compared to a segregated mandate is that the management of the pooled assets is VAT exempt in the Netherlands.

KPMG Meijburg & Co's services

KPMG Meijburg & Co's Financial Services group has extensive experience in and knowledge of asset management, the VAT treatment of purchased services, the deduction of VAT on purchases, assessing investment structures, and submitting EU claims. Our specialists can:

- provide tax guidance in setting up a new investment structure, provide support in restructuring an investment structure (e.g. mergers), and/or assess whether the investment structure currently in place is optimal from a tax perspective;
- calculate the tax leakage of an investment with our tax drag model, by comparing the tax leakage of an investment through different investing vehicles with a direct investment (in addition to the Dutch special tax regimes, foreign special investment vehicles can also be included in the tax drag model);
- provide guidance on calculating and claiming VAT refunds on purchased services and determine the VAT obligations;
- optimize the VAT positions and anticipate unintended consequences of VAT developments under EU law and case law;
- provide tax assistance in reclaiming withholding tax on investments, including the submission of EU claims; and
- perform compliance services.

We would be pleased to assist you and provide you with more information about our asset management services. Please get in touch with your contact at KPMG Meijburg & Co or with one of our Financial Services specialists.

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