

## Update Dutch dividend withholding tax

We previously informed you about the bill on the 'Withholding obligation for holding cooperatives and expansion of the withholding exemption Act' (hereinafter: the bill), that would – if enacted – take effect as of January 1, 2018 (see [our memorandum of September 20, 2017](#)). The purpose of this bill, submitted by the previous Cabinet, is threefold:

- (i) To remove the difference in treatment between profit distributions by holding cooperatives (in principle not subject to dividend withholding tax) and private limited liability companies (BVs)/public limited companies (NVs) (in principle subject to tax), and
- (ii) To extend the withholding exemption in participation situations (now only within the EU/EEA) to treaty situations, and
- (iii) To align the anti-abuse rules in the Corporate Income Tax Act and the Dividend Withholding Tax Act with EU law (the general anti-abuse rule in the EU Parent-Subsidiary Directive) and treaty anti-abuse provisions (notably the principal purpose test or PPT).

We also informed you about the coalition agreement by the four parties forming the new Cabinet (sworn in on October 26, 2017), which includes the abolition of Dutch dividend withholding tax, except for in abuse situations and in the case of distributions to low tax jurisdictions; apparently this will take place as of 2020 (see [our memorandum of October 10, 2017](#)).

Several members of the Lower House of the Dutch Parliament, including members of the four coalition parties, have raised concerns and/or questions regarding the feasibility of adopting the bill in view of the (partial) abolition of dividend withholding tax. Today (November 6, 2017), the new Deputy Minister of Finance, Mr. Snel, addressed these questions and concerns on behalf of the new Cabinet. He explained that the new Cabinet has decided to pursue the bill, in view of state aid risks and the intention to tackle avoidance (in this context Mr. Snel indicated that the bill serves as a basis for the new tax on dividends, interest and royalties paid to low tax jurisdictions and in abuse situations).

This means that, at this stage, we expect the parliamentary debates on this to continue, with the bill probably being adopted in due course. Current expectations are that dividend withholding tax will be abolished as of January 1, 2020, except for in abuse situations and in the case of distributions to low tax jurisdictions.

We will, of course, keep you informed of latest developments. Please feel free to contact your regular contact at Meijburg & Co if you have any questions or comments.

Meijburg & Co  
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