

Aberdeen e-alert

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Denmark: double tax treaty reclaims temporarily suspended



The Danish Tax Authorities temporarily suspend double tax treaty reclaims due to a suspected tax fraud

The present newsletter aims at providing an update on recent developments of the tax practice in Denmark.

Background

At the end of August 2015, a possible tax fraud of up to DKK 6.2 billion related to a double tax treaty reclaim of Danish withholding tax (WHT) was revealed.

According to the information available, repayments from the Danish Tax Authorities of WHT on dividends from Danish quoted companies may have been made to foreign corporate 'shareholders' based on false documentation, i.e., the amounts may have been paid to foreign entities that did not own any shares in the Danish companies and accordingly

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CONTACT

Sébastien Labbé
Partner
+352 22 51 51 - 5565
[Email](#)

Olivier Schneider
Senior Manager
+352 22 51 51 - 5504
[Email](#)

Michèle Kimmel
Manager
+352 22 51 51 - 5500
[Email](#)

[Contact us](#)

have not received the Danish dividend for which they have reclaimed the WHT. The case will now be investigated further.

Outcome – Double Tax Treaty reclaims

At this early stage there are no specific initiatives to change any Danish tax law or practice.

However, the Danish Tax Authorities have announced that they have now put the processing of the requests for repayments of WHT on hold for the time being and are considering possible changes to their procedures and internal controls.

Please note that, nevertheless, the 6,000 pending treaty reclaim applications are expected to be processed within a 6 months deadline.

Situation of EU Law reclaims

Please also note that claims based on EU law that have been filed with the Danish Tax Authorities by foreign investment funds are currently suspended until a ruling has been issued in a lawsuit taken out against the Danish Ministry of Taxation on behalf of a group of Nordic investment funds based on grounds of discrimination.

KPMG comments

Based on the above, the chances of success for future tax reclaims should remain “Medium”. We would however advise non-resident investment funds to keep on filing WHT reclaims as this would keep the claimants’ rights alive until the decisions are rendered.

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KPMG Luxembourg, Société coopérative,
39, Avenue John F. Kennedy, L-1855 Luxembourg

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