



**Finance Ministry Clarifies Rules
For Obtaining Tax Treaty
Benefits**

by Eric van der Stoel

Reprinted from *Tax Notes Int'l*, June 18, 2007, p. 1205

Finance Ministry Clarifies Rules for Obtaining Tax Treaty Benefits

by *Eric van der Stoel*

The Dutch Ministry of Finance has issued a statement of practice (CPP2006/2578M) that deals with the implementation of the dividend article (and the interest article) in the Netherlands's tax treaties as it applies to the reduction or exemption of Dutch withholding tax.

The administrative implementation decree contained in the May 10 statement of practice applies to all tax treaties concluded by the Netherlands, except those signed with the United States and Switzerland. It applies to dividends paid or placed at the taxpayer's disposal on or after January 1, 2007.

As of that date, the Dutch domestic withholding tax rate on dividends and on interest payments made in connection with some hybrid loans was reduced from 25 percent to 15 percent. (Royalty payments are not subject to a Dutch withholding tax.) As most portfolio dividends are subject to a treaty rate of 15 percent, no specific actions are required to obtain the new Dutch rate.

To obtain an exemption or refund for portfolio dividends, taxpayers must file a Form IB 92 Universeel (or for some situations, a Form IB 93 Universeel).

No forms are required for exemptions or refunds for dividends paid on substantial shareholdings. However, for dividends received from substantial shareholdings, special procedures apply to Luxembourg and Singapore shareholders (who must file, respectively, Form IB 95 LUX or Form IB 95 SIN).

Requests for refunds must be filed within the term set by the relevant tax treaty. An exception applies for Spain, as the term is within four years following the calendar year in which the tax was levied (whereas the treaty provides for a two-year term). If no term is mentioned in the tax treaty, the term is set at five years.

The new statement of practice replaces one issued on September 28, 2004 (IFZ2004/687M), which in turn had replaced a number of separate decrees for each tax treaty. The new statement of practice also replaces separate decrees that were applicable to the Netherlands's tax treaties with Belgium and France. ♦

♦ *Eric van der Stoel, Otterspeer, Haasnoot & Partners Rotterdam*