



September 2016

## Proposed Changes to Dutch Dividend Withholding Taxation

Currently, dividend distributions from corporations such as NVs and BVs that are residents of the Netherlands are generally subject to a 15 percent Dutch dividend withholding tax. This rate may be reduced under an applicable tax treaty. A Dutch cooperative is, however, not subject to Dutch dividend withholding tax on profit distributions to its members, except in so-called abusive tax structures. This difference in tax treatment has been a topic of discussions within the Dutch government for some time now.

Last week, the Dutch Ministry of Finance sent a letter to the Dutch Parliament containing proposals to eliminate the difference in tax treatment of (i) corporations and (ii) cooperatives. This letter is not yet a legislative proposal and is likely to be followed by a draft bill. The Ministry of Finance aims for the changes to become effective as of 1 January 2018, at the latest.

### Proposals

The letter holds two proposals:

1. It is proposed that Dutch resident corporations such as NVs and BVs will also be exempt from Dutch dividend withholding tax, if:
  - > such corporations are part of an active business structure;
  - > the parent company receiving the distribution owns an interest of at least 5 percent; and
  - > the parent company receiving the distribution is a resident of a country with which the Netherlands has a tax treaty.

2. Furthermore, it is proposed that profit distributions by Dutch cooperatives will remain exempt from Dutch dividend withholding tax if the receiving member has an interest of less than 5 percent. However, profit distributions by Dutch cooperatives to members that have an interest of 5 percent or more become subject to Dutch dividend withholding tax. A full withholding tax exemption applies under the exact same rules as explained above, *i.e.*, if:

- > such cooperatives are part of an active business structure; and
- > the member receiving the distribution is a resident of a country with which the Netherlands has a tax treaty.

The proposed legislation is announced to include adequate rules to combat improper use and abuse using the “active business structure” requirement, in order to prevent the facilitation of untaxed rerouting of dividends from the Netherlands to non-treaty countries and tax havens.

We will closely follow further developments in relation to this suggested legislative change and will keep you up to date on any more definitive changes.

This *GT Alert* was prepared by **Thomas van der Vliet**, **Reinier van de Steenoven** and **Suzanne Hop**. Questions about this information can be directed to:

- > [Thomas van der Vliet](mailto:tvv@gtlaw.com) | +31 (0) 20.301.7387 | [tvv@gtlaw.com](mailto:tvv@gtlaw.com)
- > [Reinier van de Steenoven](mailto:steenovenr@eu.gtlaw.com) | +31 (0) 20.301.7316 | [steenovenr@eu.gtlaw.com](mailto:steenovenr@eu.gtlaw.com)
- > [Suzanne Hop](mailto:hops@eu.gtlaw.com) | +31 (0) 20.301.7339 | [hops@eu.gtlaw.com](mailto:hops@eu.gtlaw.com)
- > Or your [Greenberg Traurig](#) attorney

<b>Albany</b> +1 518.689.1400	<b>Delaware</b> +1 302.661.7000	<b>New York</b> +1 212.801.9200	<b>Silicon Valley</b> +1 650.328.8500
<b>Amsterdam</b> + 31 20 301 7300	<b>Denver</b> +1 303.572.6500	<b>Northern Virginia</b> +1 703.749.1300	<b>Tallahassee</b> +1 850.222.6891
<b>Atlanta</b> +1 678.553.2100	<b>Fort Lauderdale</b> +1 954.765.0500	<b>Orange County</b> +1 949.732.6500	<b>Tampa</b> +1 813.318.5700
<b>Austin</b> +1 512.320.7200	<b>Houston</b> +1 713.374.3500	<b>Orlando</b> +1 407.420.1000	<b>Tel Aviv^</b> +972 (0) 3.636.6000
<b>Berlin-</b> +49 (0) 30 700 171 100	<b>Las Vegas</b> +1 702.792.3773	<b>Philadelphia</b> +1 215.988.7800	<b>Tokyo</b> +81 (0)3 4510 2200
<b>Berlin-GT Restructuring-</b> +49 (0) 30 700 171 100	<b>London*</b> +44 (0)203 349 8700	<b>Phoenix</b> +1 602.445.8000	<b>Warsaw~</b> +48 22 690 6100
<b>Boca Raton</b> +1 561.955.7600	<b>Los Angeles</b> +1 310.586.7700	<b>Sacramento</b> +1 916.442.1111	<b>Washington, D.C.</b> +1 202.331.3100
<b>Boston</b> +1 617.310.6000	<b>Mexico City+</b> +52 55 5029.0000	<b>San Francisco</b> +1 415.655.1300	<b>Westchester County</b> +1 914.286.2900
<b>Chicago</b> +1 312.456.8400	<b>Miami</b> +1 305.579.0500	<b>Seoul∞</b> +82 (0) 2.369.1000	<b>West Palm Beach</b> +1 561.650.7900
<b>Dallas</b> +1 214.665.3600	<b>New Jersey</b> +1 973.360.7900	<b>Shanghai</b> +86 (0) 21.6391.6633	

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. –Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ˘ Berlin - GT Restructuring is operated by Köhler-Ma Geiser Partnerschaft Rechtsanwälte, Insolvenzverwalter. \*Operates as Greenberg Traurig Maher LLP. \*\*Greenberg Traurig is not responsible for any legal or other services rendered by attorneys employed by the strategic alliance firms. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ¤Greenberg Traurig Tokyo Law Offices are operated by GT Tokyo Horitsu Jimusho, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ~Greenberg Traurig's Warsaw office is operated by Greenberg Traurig Grzesiak sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in Greenberg Traurig Grzesiak sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2016 Greenberg Traurig, LLP. All rights reserved.*