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Coalition agreement 2017: partial abolition of Dutch dividend withholding tax and introduction of a partial interest and royalty withholding tax

On October 10, 2017 it was announced that the four parties negotiating the coalition agreement for the new Cabinet intend to abolish Dutch dividend withholding tax, except for in abuse situations and in the case of distributions to low tax jurisdictions. Although the coalition agreement itself does not state when this will take effect, according to the underlying documents the abolition is set to be introduced as of 2020. In addition to the proposed (partial) abolition of dividend withholding tax, a withholding tax on interest and royalty payments to low tax jurisdictions will be introduced for 'letterbox constructions'. The Annex suggests that these new withholding taxes look set to be introduced as of 2023.

The above is apparent from the coalition agreement that was presented earlier on October 10, 2017 by coalition negotiator (*informateur*) Mr. Gerrit Zalm. It is expected that on October 12, 2017 his final report will be discussed in the Lower House of Parliament and that current Prime Minister Mark Rutte will be appointed as the cabinet formation negotiator (*formateur*). The new Cabinet will then be assembled and will probably be sworn in during the week of October 23, 2017. The agreement itself does not contain the text of proposed legislation or further explanatory remarks. Consequently, the exact scope and impact of the measures is still unclear.

Please note that the caretaker Cabinet had presented a bill on Budget Day 2017 under which distributions by holding cooperatives would, in principle, be subject to dividend withholding tax, while distributions (by capital companies or holding cooperatives) to parent companies established in treaty countries would, in principle, be exempt. See our previous memorandum on this. At present it is not known whether this bill, in whole or in part, will be withdrawn. If the bill is not withdrawn, the changes proposed on Budget Day look as though they will only be relevant until the measures intended by the new government take effect.

The coalition agreement is not – in essence – expected to affect the substantial interest rules in corporate income tax for non-resident taxpayers or the proposed changes in this respect that form part of the aforementioned bill.

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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