

TAX ALERT

Tax on dividends paid to Norway contrary to the EU law

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Polish tax authorities have recently confirmed in its decisions that tax withheld from the dividends paid by Polish companies to its Norwegian shareholders is contrary to the EU law and should be returned.

According to the Polish CIT law binding until 2006, dividends paid to the Norwegian shareholders were subject to the Polish 19% withholding tax. The tax rate could be reduced based on the Poland – Norway double tax treaty up to 5% (qualifying shareholders) or 15% (portfolio shareholders). At the same time, dividends paid to domestic shareholders were basically tax neutral and dividends paid to EU qualifying shareholders were exempt from the withholding tax.

Such provisions were questioned by the European Commission as contravening the EU law. In consequence Polish domestic provisions were amended and beginning from 2007 the dividends paid to qualifying Norwegian shareholders are exempt from the withholding tax.

Still in our opinion there is possibility to claim the refund of the tax withheld from the dividends paid to Norwegian shareholders between 1 May 2004 and 31 December 2006. Such possibility was confirmed by the decisions we have received in an analogical case and the letter of the Ministry of Finance. This relates also to dividends paid to other EEA countries (Island, Lichtenstein).

We recommend filing an application for the refund of the overpaid tax in cases which qualify. For further information and assistance please contact:

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