

EU WHT reclaims by life / pension insurers

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Life/pension insurers investing in international assets are in a unique position to reclaim withholding tax (WHT) based on the EU fundamental freedom of the free movement of capital, applicable to EU and non-EU taxpayers.

Thus, these EU and non-EU institutions suffering WHT on EU source dividends can often obtain a significant reduction of WHT on these dividends, sometimes to 0% (or close to 0%).

WHT reclaim of life/pension insurers in a nutshell

Life/pension insurers are often capital-funded and invest in the international capital market. Income derived from these investments, such as dividends from foreign corporations, is generally subject to WHT in the source country of the dividend.

In many jurisdictions, life/pension insurers are de facto tax exempt or almost tax exempt due to the possibility to assert tax-effective accruals for the liabilities to their beneficiaries.

Such regime is, however, often available only to domestic life/pension insurers; either because the wording of the law only refers to domestic taxpayers (direct discrimination) or due to the

fact that the statutory criteria lead to a de facto discrimination against foreign taxpayers (indirect discrimination).

In such cases, there is a potential discrimination under the free movement of capital.

This discrimination presents such (EU and non-EU) life/pension insurers with an opportunity for reclaiming overpaid WHT on dividends from EU member states.

Key judgments from both the Court of Justice of the European Union (CJEU) and several national tax courts have affirmed the right of life/pension insurers to reclaim overpaid WHT.

Navigating the EU insurance landscape

WTS Global Financial Services specializes in navigating the complex landscape of WHT reclaims for life/pension insurers across the EU.

Our national experts will support your case holistically, from identifying reclaim opportunities and analyzing the regulatory environment via the initial application, through the administrative procedure and, if necessary, to court proceedings.

We combine local expertise in the respective WHT country with the strength of a global network of tax advisors. This combination enables us to provide to you comprehensive support from a single source with the highest quality of advice and professional process management.

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Take action: Our WHT Matrix to analyze potential reclaims

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The table chart below illustrates the reclaim potential for foreign EU and third country life / pension insurers in 6 WHT source countries - as a sample - with regard to dividend income from portfolio investment. This is represented by the difference between the WHT rate applicable to foreign life/pension insurers (1) nationally and (2) under the respective double tax treaty (DTA), if any, and a reduction of WHT to maximum 0% after a successful EU law based reclaim.

If you wish to find out more about the opportunities of your institution to attain a reduction of foreign WHT, please feel free to contact any of the above WTS Global experts, who will liaise with their peers at Tiberghien (Belgium and Luxembourg), Castrén & Snellman (Finland), Fidal (France), WTS Germany, VdA (Portugal), Svalner (Sweden), ATLAS (The Netherlands), and WTS Hansuke (UK), as appropriate.

Let us help you unlock hidden value and ensure you are maximizing investment return.

WHT Reclaim potential		WHT source country						
		Belgium	Finland	France	Germany	Netherlands	Portugal	Sweden
Insurer domicile country	Belgium	-	20% national 15% DTA	25% national 15% DTA	26,375% national 15% DTA	15% national 15% DTA	25% national 15% DTA	30% national 15% DTA
	Finland	30% national 15% DTA	-	25% national 0% DTA	26,375% national 15% DTA	15% national 15% - 0% DTA	25% national No DTA	30% national 15% DTA
	France	30% national 15% DTA	20% national 0% DTA	-	26,375% national 15% DTA	15% national 15% DTA	25% national 15% DTA	30% national 15% DTA
	Germany	30% national 15% DTA	20% national 15% DTA	25% national 15% DTA	-	15% national 15% DTA	25% national 15% DTA	30% national 15% DTA
	Netherlands	30% national 15% DTA	20% national 15%-0% DTA	25% national 15% DTA	26,375% national 15%-10% DTA	-	25% national 10% DTA	30% national 15% DTA
	Portugal	30% national 15% DTA	20% national No DTA	25% national 15% DTA	26,375% national 15% DTA	15% national 10% DTA	-	30% national No DTA
	Sweden	30% national 15% DTA	20% national 15% DTA	25% national 15% DTA	26,375% national 15% DTA	15% national 15% DTA	25% national No DTA	-
	Lux.	30% national 15% DTA	20% national 15% DTA	25% national 15% DTA	26,375% national 15% DTA	15% national 15% DTA	25% national 15% DTA	30% national 15% DTA
	UK	30% national 10% DTA	20% national No DTA	25% national 15% DTA	26,375% national 15-10% DTA	15% national 15% - 0% DTA	25% national 15% DTA	30% national 15% DTA
	US	30% national 15-0% DTA	20% national 15-0% DTA	25% national 15% DTA	26,375% national 15-0% DTA	15% national 15% - 0% DTA	25% national 15% DTA	30% national 15-0% DTA