

Application of Articles 10, 11 and 12

1. Income derived from Belgian sources by residents of a treaty partner

1.1 Belgian domestic tax rules

In general, Belgian sourced **dividends** paid to non-residents are subject to a withholding tax (*Mobiliensteuervorabzug*) of **25%**, which may be reduced in most cases to **15%** and which is a final tax for non-resident individuals.

The rate of the withholding tax on Belgian sourced **interest** and **royalties** is generally **15%**¹.

The rates of 15% and 25% apply to the **gross amount** of dividends and interests.

Regarding royalties, the 15% rate applies to the **net amount**, i.e. the gross amount minus lump sum deductions ranging from 15% (in most cases) to 50 or 85% (in some specific cases). Consequently the effective rate of Belgian tax varies from 12,75% (in most cases) to 7,5 or 2,25% (in some specific cases) of the gross amount of the royalties.

In the case of copyright royalties, the "withholding tax on earned income" (*Berufssteuervorabzug*) is levied in some cases. The rate of this withholding tax may vary depending on each case.

1.2 Procedure to be followed in order to enjoy the reductions provided for in the Agreement

Paragraph 2 of the Articles 10, 11 and 12 of the DTC's provides generally for a reduction of the Belgian withholding tax and/or an exemption for some kind of dividends, interest or royalties.

The DTC-relief can be granted in Belgium according to two different procedures.

Under the **first procedure**, which mostly applies in the case of dividends and interest, the debtor of the income initially pays the Belgian withholding tax due in accordance with Belgian domestic tax rules, the excess tax being refunded later.

Under the **second procedure**, more frequent in the case of royalties, the reduction provided for in the Agreement applies immediately at source.

¹ If however the contract in respect of which the interest or royalties are paid is concluded before 1st march 1990, the rate of the withholding tax is 25%.

Irrespective of the applicable procedure, the reduction or exemption of the domestic withholding tax will be subordinated to the production of specific forms (form nr. 276 *Div.-Aut* for dividends, nr. 276 *Int.-Aut* for interest, nr 276 *Roy.* for royalties). Enclosed you will find a specimen of each of these forms, including explanatory notes.

These forms are composed of two copies, one copy for the Belgian tax authority and the other copy for the tax authority of our treaty partner. The application of the reduction (or exemption) of Belgian withholding tax will be subordinated to the production of a certification by the tax authorities of our treaty partner that the beneficial owner of the income is a resident of the territory of that State within the meaning of Article 4 of the DTC.

Under each of the two procedures, the legitimacy of the request made by non-residents will always be checked before any reduction of Belgian withholding tax is granted (see also explanatory notes attached to the forms).

The forms 276 *Div.-Aut*, 276 *Int.-Aut* and 276 *Roy.* (as well as the attached explanatory notes) are delivered in Belgium free of charge by the :

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p.s.:

The rates provided for by Articles 10, 11 and 12 of the DTC concluded in 1971 between Belgium and Austria are very close to those provided for by the Belgian domestic legislation. For that reason, the procedure explained above might not apply very often.