

Belgian withholding tax on dividends distributed by Vastned NV to non-resident shareholders

The contents of this document are for general information and illustrative purposes. It is not intended to be complete and is solely based on Belgian and Dutch tax legislation and administrative interpretations in force on the date hereof, which are subject to change (including changes with retroactive effect). Shareholders are advised to consult their own tax adviser regarding the Belgian withholding tax treatment of dividends distributed by Vastned NV, the availability of reduced withholding tax rates or exemptions, the procedure to claim such reduced rates or exemptions and the tax treatment of the dividends distributed by Vastned NV in the residence state of the shareholder.

1. Belgian withholding tax

The gross amount of dividends distributed by Vastned NV is, in principle, subject to Belgian dividend withholding tax (“WHT”) at the rate of 30%. This applies to Vastned NV shares listed on Euronext Brussels and Euronext Amsterdam. Investors will in principle receive the net amount of the dividend after withholding of Belgian WHT.

On dividends paid to non-resident shareholders who have not allocated the shares to a professional activity in Belgium, the Belgian WHT in principle constitutes the final Belgian tax. Pursuant to Belgian domestic legislation or an applicable double tax treaty (“DTT”), the dividend can be (partially) exempt from WHT or the standard WHT of 30% can be reduced.

For dividends distributed by Vastned NV to a tax resident of a state with which Belgium has concluded a DTT, and who (i) beneficially owns the dividends, (ii) does not hold the Vastned NV shares through a permanent establishment in Belgium and (iii) is entitled to claim benefits under the relevant DTT, the WHT rate is reduced from 30% of the gross amount of the dividends to the percentage mentioned in the DTT. In some DTTs, the reduced rate is lower, or an exemption applies, for certain qualifying shareholders such as pension funds and shareholders that hold a certain minimum stake in the share capital or voting rights of Vastned NV.

Most DTTs concluded by Belgium provide for a reduction of the Belgian WHT rate on dividends to 15% or 10%. In some cases, a reduced rate of 5% or a full exemption may be available. Shareholders are advised to consult their financial institution or tax adviser for personal advice.

The (partial) WHT exemption or reduction only applies provided that the shareholder fulfils the documentation requirements in a timely manner (see section 3 below). Shareholders are advised to consult their tax adviser or financial institution or broker to assist them with the WHT reclaim process.

2. Example: Dutch resident shareholders

A significant portion of the shareholder base of Vastned NV is tax resident in the Netherlands. The following paragraphs set out, at a high level, the Belgian WHT treatment of dividends paid to Dutch resident shareholders, as well as a brief outline of the interaction with Dutch tax due on the dividends. This summary is for general information only and does not constitute Dutch tax advice. Dutch resident shareholders should consult their own tax adviser regarding their personal situation.

2.1 Reduced rate under the Belgium-Netherlands double tax treaty

Belgium and the Netherlands have concluded a DTT in 2001, amended by the protocol of 23 June 2009 and the Multilateral Instrument as ratified by Belgium and the Netherlands. Please note for completeness' sake that a new Belgium-Netherlands DTT was signed on 21 June 2023 but is not yet ratified by both states. Until the new DTT enters into force, the 2001 DTT (including its amendments) continues to apply.

Under the currently applicable Belgium-Netherlands DTT, the Belgian WHT rate on dividends paid by Vastned NV to a Dutch tax resident beneficial owner is in principle reduced as follows:

- **Reduced rate of 5%:** where the beneficial owner is a Dutch company directly holding at least 10% of the capital of Vastned NV throughout a 365-day period that includes the day of the payment of the dividends.
- **Standard reduced rate of 15%:** where the beneficial owner is a Dutch resident individual or Dutch corporate shareholder that does not qualify for the above reduced rate of 5%.

These reduced rates only apply provided that the shareholder completes the form 276DIV in a timely manner (see section 3 below).

2.2 Interaction with Dutch tax

Dutch resident shareholders will need to assess separately how their Vastned NV shares and any proceeds such as dividend are taxed in the Netherlands and to what extent the Belgian WHT can be credited or otherwise relieved. As a general indication:

- **Dutch resident individuals (box 3):** Vastned NV shares held as a portfolio investment by individuals are typically taxed in box 3 of the Dutch personal income tax on the basis of a notional (deemed) return on the value of the shares. Belgian WHT can in principle be credited against the Dutch personal income tax due, but the credit is generally limited to the amount provided for under the Belgium-Netherlands DTT (in principle 15%) and to the Dutch tax effectively due in box 3 on the relevant income. To the extent the actual income of Dutch resident individuals in box 3 of all their assets is lower than the notional (deemed) return (without taking into account any exemptions) the lower total actual income in box 3 is taxed, and this lower amount is relevant for crediting any Belgian WHT. To the extent crediting is not possible the remaining relief can be carried forward.
- **Dutch resident individuals (box 2):** Where a Dutch resident individual holds a substantial interest (“aanmerkelijk belang”, generally 5% or more) in Vastned NV, the dividend is taxable in box 2 of the Dutch personal income tax, at the applicable progressive box-2 rates. The Belgian WHT can in principle be credited against the Dutch personal income tax due, again capped at the DTT rate. To the extent crediting is not possible, the remaining relief can be carried forward.
- **Dutch resident companies (participation exemption):** Where the Dutch corporate shareholder has a qualifying interest in Vastned NV for the Dutch participation exemption (“deelnemingsvrijstelling”) to apply, which is, in short, an interest of 5% or more, the dividend is in principle exempt from Dutch corporate income tax for the Dutch corporate shareholder. In this case the Belgian WHT is not creditable.

- **Dutch resident companies (no participation exemption):** Where the Dutch corporate shareholder does not qualify for the Dutch participation exemption, generally owning less than 5%, the dividend is taxable income. In that case Belgian WHT may in general be credited against any Dutch corporate income tax actually due. If the taxable income of the company is not positive, a credit will not be available. To the extent crediting is not possible, the remaining relief can be carried forward. Please note that if costs are attributable to the income (e.g., in case shares have been acquired with an interest-bearing loan), crediting of Belgian WHT may become lower (based on the actual net income and the Dutch corporate income tax rate).

3. How to apply for a reduced rate or exemption

3.1 Application at source

In certain cases, a reduced WHT rate or (partial) WHT exemption can be applied by Vastned NV at source. The application of a reduced rate or (partial) exemption at source requires holders of Vastned NV shares to fulfil documentation requirements in advance and within strict deadlines. Shareholders should contact their broker or financial institution to be guided through the at-source process.

3.2 Claim for refund

Holders of Vastned NV shares who are entitled to a reduced rate or a (partial) exemption but for whom the benefit was not (fully) applied at source may file a claim for refund of (part of) the Belgian WHT with the Belgian tax authorities. Such claim must be filed as soon as possible and in any case within five years starting from 1 January of the year during which the WHT was paid by Vastned NV to the Belgian Treasury.

More information on the reclaim procedure can be obtained by contacting the competent service of the Belgian Tax Authorities:

KMO Centrum Specifieke Materies – Team 6

Koning Albert II-laan 33 bus 518

1030 Brussel

Belgium

Telephone: +32 2 572 57 57 (Dutch direct code: 17518)

E-mail: foreigners.team6@minfin.fed.be

<https://finance.belgium.be/en/enterprises/international/reimbursement-withholding-tax-movable-property>

In all cases, shareholders are advised to seek professional advice or to contact their financial institution or broker to assist them with the Belgian WHT reclaim process.