



Tax directions: The limitation period for reclaiming dividend withholding tax reduced from five to three years

On 13 June 2016, SKAT, the Danish tax authorities, published new tax directions (*styresignal*), according to which the limitation period for reclaiming excess dividend withholding tax is reduced from five to three years. This change is a distinct tightening of the previous interpretation of the provision in s. 67A of the Danish Withholding Tax Act (*kildeskatteloven*).

Shorter limitation period

Individuals and companies receiving dividends from Danish companies on which withholding tax has been levied at a rate exceeding that applicable under Council Directive 2011/96/EU (on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States) or a double taxation agreement are entitled to claim reimbursement of dividend tax. Until recently, such claims were, according to SKAT's interpretation, subject to s. 67A of the Danish Withholding Tax Act, which stipulates a five-year limitation period.

According to its new, published tax directions, SKAT has revised its interpretation of the provision in s. 67A of the Danish Withholding Tax Act to the effect that the provision no longer comprises requests for reimbursement of excess dividend withholding tax. As a result of SKAT's revised interpretation, such claims will now be subject to the ordinary three-year limitation period.

However, if a double taxation agreement stipulates a limitation period of more than three years, the period applicable under the double taxation agreement will continue to apply to potential claims for dividend tax refund.

Commencement of the three-year limitation period

The three-year limitation period for reclaiming excess dividend withholding tax will take effect three months after the publication of SKAT's tax directions, that is, at 13 September 2016.

This means that claims for reimbursement of dividend tax withheld that reach SKAT by 12 September 2016 at the latest will be subject to a five-year limitation period, whereas any claim submitted on 13 September 2016 onwards will be time-barred after three years.

Comments by Bech-Bruun (Taxand Denmark)

Individuals and companies entitled to a refund of excess dividend withholding tax and whose claims either date back longer than three years or may risk being time-barred subject to the new three-year limitation period should file their requests for reimbursement of excess dividend tax to SKAT without undue delay and no later than 12 September 2016. If they fail to do so and their claims date back longer than three years, the new and tighter practice entailed in the tax directions means that SKAT will consider their right to claim reimbursement as having lapsed.