



## Selected aspects of withholding tax (WHT)

### Series of webinars

In the name of the management board of IFA Poland, I have the pleasure of inviting you to a series of webinars dedicated to withholding tax (WHT).

Issues relating to this area of tax law, which is important for most entities acting on a cross-border basis, are the subject of lively debate at the European and Polish levels.

We plan to dedicate the first webinar to ECJ rulings in Danish cases, many of which have been considered to be ground-breaking in tax planning with regard to passive payment flows within the EU framework and vis-a-vis third countries.

We will dedicate the second webinar to Polish legal conditions surrounding withholding tax with particular emphasis on the WHT refund mechanism and the Polish definition of beneficial owner.

*dr Wojciech Sztuba*

#### **Beneficial owner clause and prohibition on abusing this right with the example of ECJ rulings in Danish cases (in English)**

20 October 2020 | 16.30 - 18:00

#### **Selected aspects of the Polish reform of withholding tax reform - key changes, challenges and emerging trends (in Polish)**

10 November 2020 | 16.30 - 18:00



# Webinar: Beneficial owner clause and the prohibition on abusing this right with the example of ECJ rulings in Danish cases

20 October 2020 | 16.30 - 18:00 | Webinar in English

Rulings of the European Court of Justice (ECJ) in Danish cases T Danmark (Case no. C-116/16) and N Luxembourg 1 (case no. C-115/16) dated 26.02.2019, which were rendered against the background of applying withholding tax exemptions based on an EU Directive on parent companies and subsidiaries as well as a Directive on the taxation of interest and license fees, are a breakthrough with regard to tax planning with the use of holding companies in the EU. Most commentators jointly agree that argumentation in the cited rulings significantly deviates from hitherto ECJ adjudication with regard to withholding tax exemption sanctioned by the cited tax directives. Fundamental issues raised by the EU court relate to the manner of interpreting clauses on beneficial owner of passive payments and the ban on abusing a right through the creation of artificial holding structures.

As *acquis communautaire*, these rulings are important from the perspective of Polish entities paying dividends, interest and license fees to affiliated entities and other member states. In order to better understand potential tax consequences arising from these rulings, main ECJ arguments in these rulings will be presented during the webinar with particular reference to Danish factual-legal conditions. Key similarities and differences between these resolutions will be discussed with the opinion of the Advocate General and the approximate impact of ECJ rulings on the adjudication of specific member states will be assessed.

## Agenda:

16:30 - 16:35	Introduction - dr Wojciech Sztuba
16:35 - 17:05	Beneficial owner clause and the prohibition on abusing this right with the example of ECJ rulings in Danish cases from the perspective of a Danish lawyer - <i>Erik Banner-Voigt</i>
17:05 - 17:20	The AG Kokott's Opinions vs the ECJ Judgements on the Danish BO Cases: The Similarities and Differences in the Perception of Beneficial Owner - <i>dr Błażej Kuźniacki</i>
17:20 - 17:35	The reception of Danish rulings in adjudication in selected EU member states - the approach of national courts in other member states, prediction of the approach of Polish administrative courts - <i>dr Filip Majdowski</i>
17:35 - 17:55	Q&A - <i>dr Błażej Kuźniacki (moderator)</i>
17:55 - 18:00	Summary - <i>dr Wojciech Sztuba</i>



### Main speaker: Erik Banner-Voigt

"Erik Banner-Voigt is a star within Danish tax." (The Legal 500)

"Possibly the best tax lawyer in Denmark when it comes to PE." (The Legal 500)

### Other speakers:



dr Wojciech Sztuba



dr Błażej Kuźniacki



dr Filip Majdowski

# Webinar: Selected aspects of the Polish reform of withholding tax reform (WHT) - key changes, challenges and emerging trends

10 November 2020 | 16.30 - 18:00 | Webinar in Polish

The reform of the WHT collection mechanism at the beginning of 2019 has permanently changed the Polish practice of applying the rules on taxation of payments made to foreign entities. The centerpiece of changes was the introduction of the WHT refund mechanism (collect and apply for a refund) in place of the hitherto existing preferential mechanism (apply preference at the time of payment - WHT relief). Although the entry into force of the return mechanism has been postponed several times, according to the current state of law, the mechanism should become effective from 01.01.2021.

This fundamental change was additionally accompanied by the introduction of the requirement of due diligence on the part of Polish remitters directly in the regulations and the extension of the clause of the beneficial owner to include the requirement for a substance test of the entity which is the recipient of the payment.

The above tax landscape is affected not only by the emerging jurisprudence of Polish courts on the reformed withholding tax, or by the impact of the jurisprudence of the CJEU, which will be discussed in the October IFA webinar, but also by the plans announced by the Ministry of Finance to modernize the refund mechanism. The aim of the webinar devoted to the Polish withholding tax reform is to systematise the existing knowledge on the subject and to attempt to assess the changes so far and proposed, together with the observable trends in the practice of Polish taxpayers and tax authorities.

## Agenda:

16:30 - 16:35	Introduction - dr Wojciech Sztuba
16:35 - 17:05	Selected aspects of the Polish WHT reform on the example of the WHT refund mechanism and the definition of the beneficial owner - <i>dr Michał Wilk</i>
17:05 - 17:20	Current dimensional behaviour in the context of tax proceedings on the basis of Polish beneficial owner clause and look-through approach: basic arguments of tax authorities and anticipated directions of their development – <i>dr Błażej Kuźniacki</i>
17:20 - 17:35	Assessment of the changes to the WHT return mechanism considered by the lawmakers and the definition of the beneficial owner- <i>Michał Nowacki</i>
17:35 - 17:55	Q&A - <i>dr Filip Majdowski (moderator)</i>
17:55 - 18:00	Summary - <i>dr Wojciech Sztuba</i>



### Main speaker: dr Michał Wilk

He specializes in international tax law, in particular advising on withholding tax (his PhD has been devoted to the beneficial owner clause).

### Other speakers:



dr Wojciech  
Sztuba



dr Błażej  
Kuźniacki



dr Filip  
Majdowski



Michał  
Nowacki



International Fiscal Association



## Registration

Participation in the event is free but registration is required:

>> [Register](#) | 20 October 2020

>> [Register](#) | 10 November 2020

Limited number of places. Confirmation of participation will be sent in separate correspondence.

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Series of webinars under the patronage of  
dr Michał Wilk's podcast „Dzień Dobry Podatki”

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