

# Russia announces denunciation of DTT with the Netherlands

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As [announced](#)\* by the Russian Ministry of Finance, on 7 June 2021, Russia officially notified the Netherlands of its intention to denunciate their double tax treaty (the “DTT”) starting 1 January 2022.

Negotiations between Russia and the Netherlands aimed at amending the applicable DTT (as was previously the case with [Cyprus](#), [Malta](#) and Luxembourg) have failed to bear fruit. As a result, Russia initiated the DTT denunciation.

Official notification made by the Russian side is the final step of the DTT denouncing procedure. Previously, Russia also adopted all required amendments to the national legislation by the [Federal law No. 139-FZ](#)\* dated 26 May 2021.

## Comments

The DTT denunciation will give rise to the following implications:

- A 15% domestic withholding tax rate will apply to dividends payments. Other outbound payments (interest, royalties, other income) will be taxed at a 20% rate, applicable in Russia under domestic rules.

In practice, increased withholding tax rates may apply even in cases of indirect income distribution to ultimate beneficiaries located in the Netherlands, based on the look-through approach the Russian tax authorities frequently exercise.

- Double taxation relief mechanisms will be terminated.
- Information exchange under the DTT will cease.
- Russian regulations applicable to controlled foreign corporations (CFCs) located in the Netherlands will be toughened.

Also, under a worst-case scenario, upon the DTT denunciation, Russia could include the Netherlands in the blacklist of tax havens. If this happens, international structures involving Dutch entities will face additional tax exposure (e.g. increase in applicable income rate to dividends received from structures incorporated in the Netherlands, toughening of transfer pricing requirements).

## Take action

In practice, officially notifying the Dutch government of the DTT denunciation may represent a last-ditch attempt to push the Netherlands to accept the changes proposed by the Russian Federation. Russia has already successfully used similar pressure points in its negotiations of DTT changes with Cyprus and Malta.

Unless the Russian and Dutch governments ultimately reach a compromise regarding the requested changes to the DTT, it will be denounced starting 1 January 2022.

In the meantime, affected businesses should review business and corporate structures involving entities incorporated in the Netherlands and make a preliminary assessment of any additional tax exposure resulting from the DTT denunciation, taking into account the potential toughening of Russian anti-abuse regulations.

If keeping Dutch entities in corporate structures involving Russian taxpayers is no longer efficient, companies should consider reorganising these structures, including relocating Dutch holding entities to other European jurisdictions that have a DTT with Russia in effect.

In addition, existing complex holding structures with intermediate entities located in the Netherlands may be simplified to ensure the direct participation of active holding companies located in Russia or abroad in Russian taxpayers performing outbound payments.

However, taxpayers should consider such restructurings only to the extent that they also meet the economic and business goals of the reorganised groups and are not solely driven by the intention to avoid or reduce the taxation

burden in Russia.

If you have any questions on this eAlert, do not hesitate to contact CMS Russia experts [Dominique Tissot](#), [Maria Kabanova](#), [Anna Osmakova](#) or your regular contact at CMS Russia.

*\* In Russian*

## KEY CONTACTS

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