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Guide to the Recovery of Excess Withholding Tax on Dividends in Spain

Tax

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Spanish tax rules allow non-resident investors to seek, where appropriate, a refund of tax borne in excess on dividends received from Spanish companies. This may arise where withholding tax exceeds the limit under the applicable Double Tax Treaty (DTT) or, in certain cases involving foreign investment funds, where the Spanish tax treatment is less favourable than that applicable to a comparable Spanish collective investment undertaking (CIU).

Why is this process relevant?

The recovery of excess withholding or taxation may be financially significant, particularly for institutional investors, investment funds, family offices and high-net-worth individuals receiving dividends from Spanish companies.

Determining whether an amount may be recoverable requires an analysis of, among other matters:

- **the withholding tax** actually borne and the applicable rate;
- **the relevant DTT;**
- **in the case of investment funds,** comparability with a Spanish CIU and the potential application of EU law; and
- **tax credit mechanisms,** available documentation and applicable limitation periods.

How does the Double Tax Treaty (DTT) work

Double Tax Treaties are agreements between States which may, among other matters, limit the rate of tax that Spain may impose on dividends received by residents of the other contracting State.

Where the withholding tax applied exceeds the limit provided for under the relevant DTT, a refund of the difference may be requested. In certain cases involving foreign investment funds, correct application of the DTT rate does not, in itself, exclude a potential claim under European Union law.

[1] Under Article 25.1(f) of Royal Legislative Decree 5/2004 of 5 March, approving the consolidated text of the Spanish Non-Resident Income Tax Law, dividends and other income derived from participation in the equity of an entity are generally subject to a 19% tax rate, without prejudice to any exemptions and to the limits provided for under the applicable legislation and Double Tax Treaties.

Foreign investment funds: an additional route under EU law

The judgment of the Court of Justice of the European Union of 17 September 2026 in Case C-139/25 (Ishares Europe ETF) examines the different tax treatment applied to dividends received from Spanish companies by resident and non-resident collective investment undertakings.

In the case considered, a US investment fund had borne a 15% tax in Spain on the dividends received, whereas comparable Spanish collective investment undertakings were subject to a 1% tax rate. The CJEU held that this difference in taxation constitutes, in principle, a restriction on the free movement of capital.

The existence of a Double Tax Treaty does not automatically neutralise that difference. It must be established whether the fund or, in tax-transparent structures, its investors were able to benefit effectively from the treaty mechanism so that the difference in taxation was fully offset.

Accordingly, each claim requires an analysis of the fund's comparability with a Spanish CIU, its tax regime, the applicable DTT, the effective use of tax credits and the available supporting documentation.

Illustrative example

Dividends received from Spanish companies	**EUR 1.000.000**
Tax borne by the foreign fund at 15%	**EUR 150.000**
Reference taxation of a comparable Spanish CIU at 1%	**EUR 10.000**
Difference in taxation	**EUR 140.000**

The existence of this difference does not automatically give rise to a right to recover EUR 140,000. The availability and amount of any refund depend on the comparability analysis, the applicable DTT and whether the difference in taxation has been effectively neutralised.

[2] Judgment of the Court of Justice of the European Union (First Chamber) of 17 September 2026, Administración General del Estado v Ishares Europe ETF, Case C-139/25, ECLI:EU:C:2026:763.

Process to Recover Excess Withholding

The main stages of a refund claim are set out below. The procedure and supporting documentation may vary depending on the type of investor, the legal basis of the claim and whether the investment is held directly or through custodians or other financial intermediaries.

1. ANALYSIS OF THE EXCESS TAXATION	We determine the taxation actually borne and compare it with the taxation that should apply under the relevant DTT and applicable legislation. In the case of foreign investment funds, we also analyse comparability with a Spanish CIU and the potential application of European Union law.
2. COLLECTION AND ANALYSIS OF DOCUMENTATION	We collect the tax residence certificate, withholding tax certificates and the documentation required to evidence the investment and the dividends received. For investment funds, additional regulatory, tax and corporate documentation may be required.
3. PREPARATION AND FILING OF THE REFUND REQUEST	We prepare the corresponding refund request before the Spanish Tax Agency, including, where applicable, the filing of Form 210 and the documentation supporting the entitlement to the refund.
4. FOLLOW-UP OF THE PROCEEDINGS	We monitor the proceedings before the Spanish Tax Agency and respond, where necessary, to requests for additional information or documentation. Where required, we also analyse the appeal routes available against an unfavourable decision.
5. RECEIPT OF THE REFUND	Where the refund request is upheld, the amount due is paid by bank transfer in accordance with the rules applicable to the relevant procedure.

Distinction in the Process: Direct Investors vs. Investors through Custodians

The refund process may vary depending on whether the investor holds the investment directly or through one or more custodians or financial intermediaries. The main differences are set out below:

Investors who invest directly:	• **Direct receipt of dividends:** the investor receives dividends from the Spanish company, subject to the corresponding withholding tax at source. • **Documentation:** evidence must be provided of the dividends received, the withholding tax borne and the investor's tax residence, using documentation issued by the paying entity or the relevant financial intermediary, as applicable. • **Claim process:** the refund request is filed with the Spanish Tax Agency, including, where applicable, Form 210 and the corresponding supporting documentation.
Investors who invest through custodians:	• **Intermediation:** payments may pass through a chain of Spanish and foreign custodians or financial intermediaries before reaching the ultimate investor. • **Documentation:** it may be necessary to obtain through the custodian certificates or other evidence of the withholding tax borne and, where relevant, the traceability of the payment chain. • **Claim process:** the refund request is submitted to the Spanish Tax Agency together with the corresponding supporting documentation.

Investment fund claims may require additional documentation to evidence the fund's legal nature, tax regime and comparability with a Spanish CIU.

Direct Investors

STEP 1

Receipt of dividends from the Spanish company.

STEP 2

Obtain the relevant dividend and withholding tax certificates.

STEP 3

File the refund request with the Spanish Tax Agency.

Investors through Custodians

STEP 1

The custodian or intermediaries receive and channel the dividends on behalf of the investor.

STEP 2

Obtain evidence of the withholding tax and, where relevant, the payment chain.

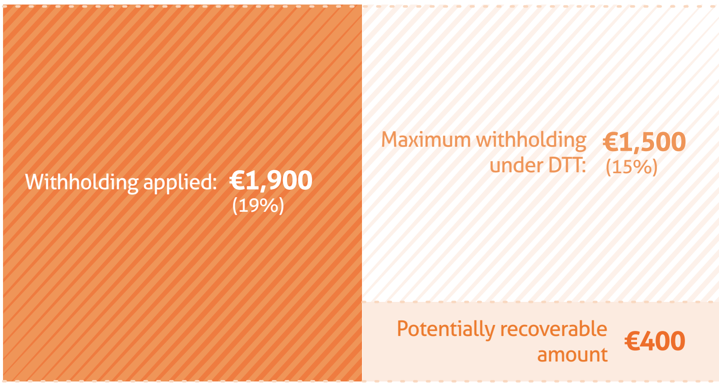
STEP 3

File the refund request with the Spanish Tax Agency together with the supporting documentation.

Practical Examples

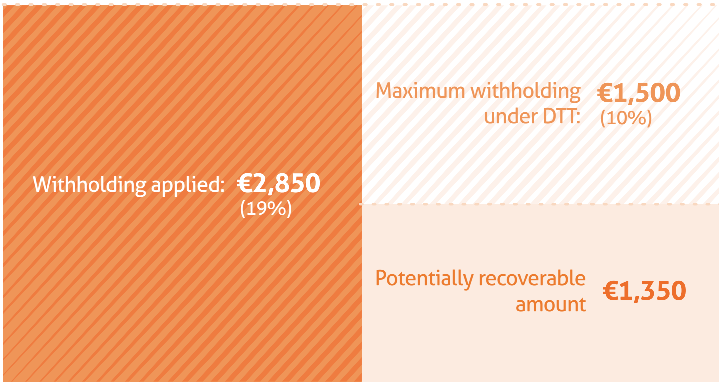
Example 1: Individual investor resident in the US.

A US-resident individual receives EUR 10,000 in dividends from a Spanish company. Spain applies a **19%** withholding tax (EUR 1,900). In the scenario considered, the Spain-US DTT limits Spanish taxation to **15%.** The potentially recoverable amount is EUR 400 (EUR 1,900 - EUR 1,500).



Example 2: Individual investor resident in Mexico.

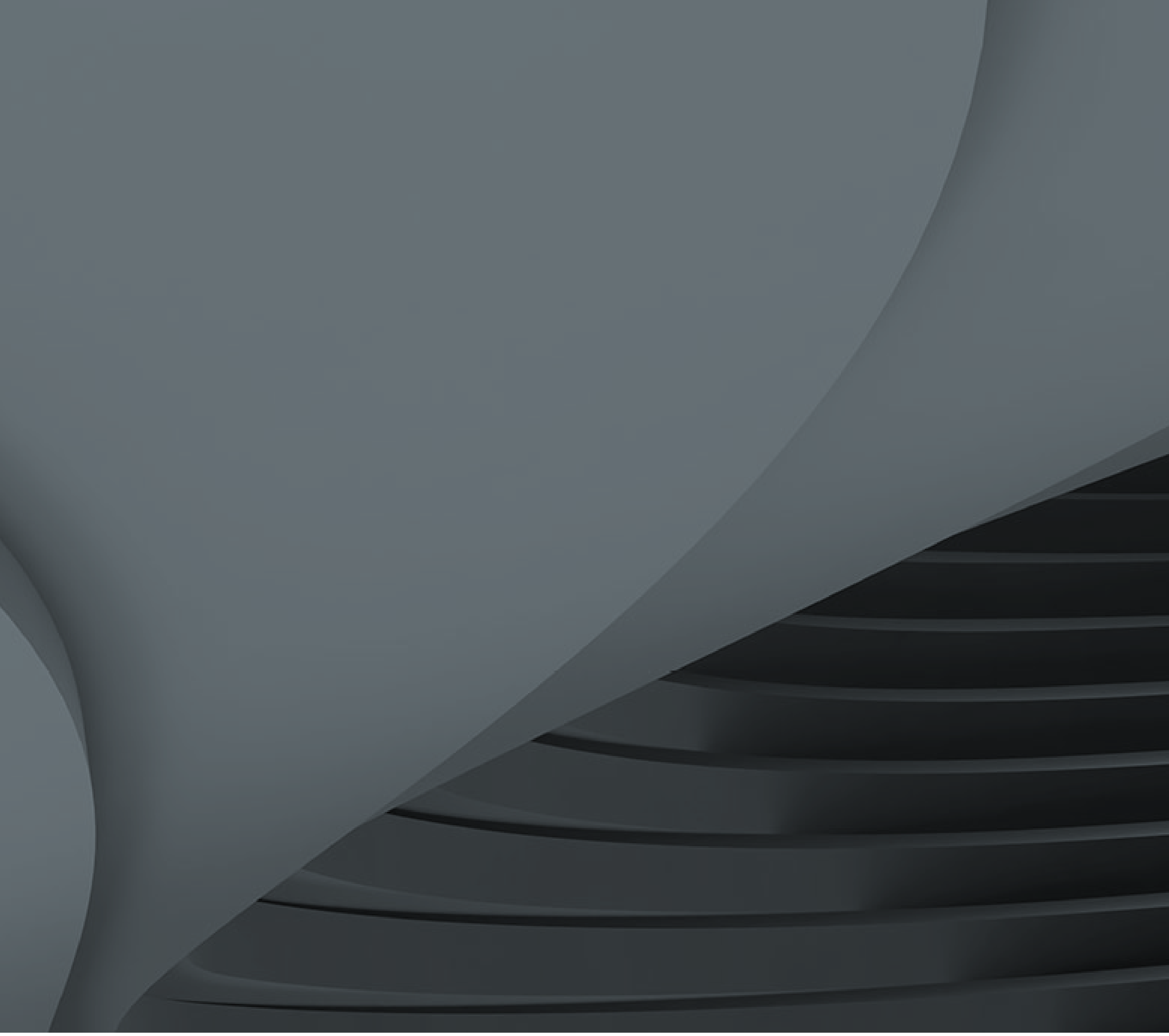
A Mexico-resident individual receives EUR 15,000 in dividends from a Spanish company. Spain applies a **19%** withholding tax (EUR 2,850). In the scenario considered, the Spain-Mexico DTT limits Spanish taxation to **10%**. The potentially recoverable amount is EUR 1,350 (EUR 2,850 - EUR 1,500).



Examples are provided for illustrative purposes only. The applicable taxation and any amount potentially recoverable depend on the relevant legislation, DTT, nature of the investor and the specific circumstances of each case.

Need help with the claim?

Our team will review your case and explain the routes available to recover, where applicable, excess taxation borne in Spain.



MADRID
Paseo de la Castellana 53, 28046.
+34 91 080 09 29
firstcontact@seegman.com
www.seegman.com

LISBOA
R. Latino Coelho 87 - 1050-134
+351 213472251
firstcontact@seegman.com
www.seegman.com