

Dutch tax ruling paves way for €100m refund for UK schemes

UK SCHEMES are set to receive a refund of over €100m (£93m) following a legal challenge against the Dutch tax authorities by the Strathclyde Pension Fund

In a ruling issued yesterday, The Dutch tax authorities said they accepted Strathclyde Pension Fund's claims they should not have levied a "withholding tax" on dividend payments to tax exempt bodies - such as pension funds - located within the European Union but outside the Netherlands.

And they said they would repay withholding taxes going back to 2003 in the near future.

However, while there will be a repayment of claims made for years prior to 2007, the Dutch Tax Authorities have granted these payments on an ex-officio basis and have yet to admit that the Dutch WHT rules in place prior to 2007 were in contravention of EU law.

The test case was organised by KPMG UK and KPMG Meijburg on behalf of a number of UK pension funds. The Strathclyde Pension Fund was chosen as the test claimant.

KPMG international corporate tax practice UK head Chris Morgan said: "This is a ground breaking and progressive ruling from the Dutch Tax Authorities in that it recognises the need to remove barriers to cross border investment in Europe and supports the principle of the free movement of capital within the European Union. Pension funds who have not filed claims to date should look to do so in the near future before claims potentially become time-barred."

"Hopefully this decision will pave the way for other EU Member States to follow suit and repay other reclaims for withholding tax lodged on the same grounds as in the Netherlands. Such claims have been brought against at least twelve Member States of the EU."

KPMG said it currently has over 70 UK pension fund clients whose claims in the Netherlands should follow this test case ruling.