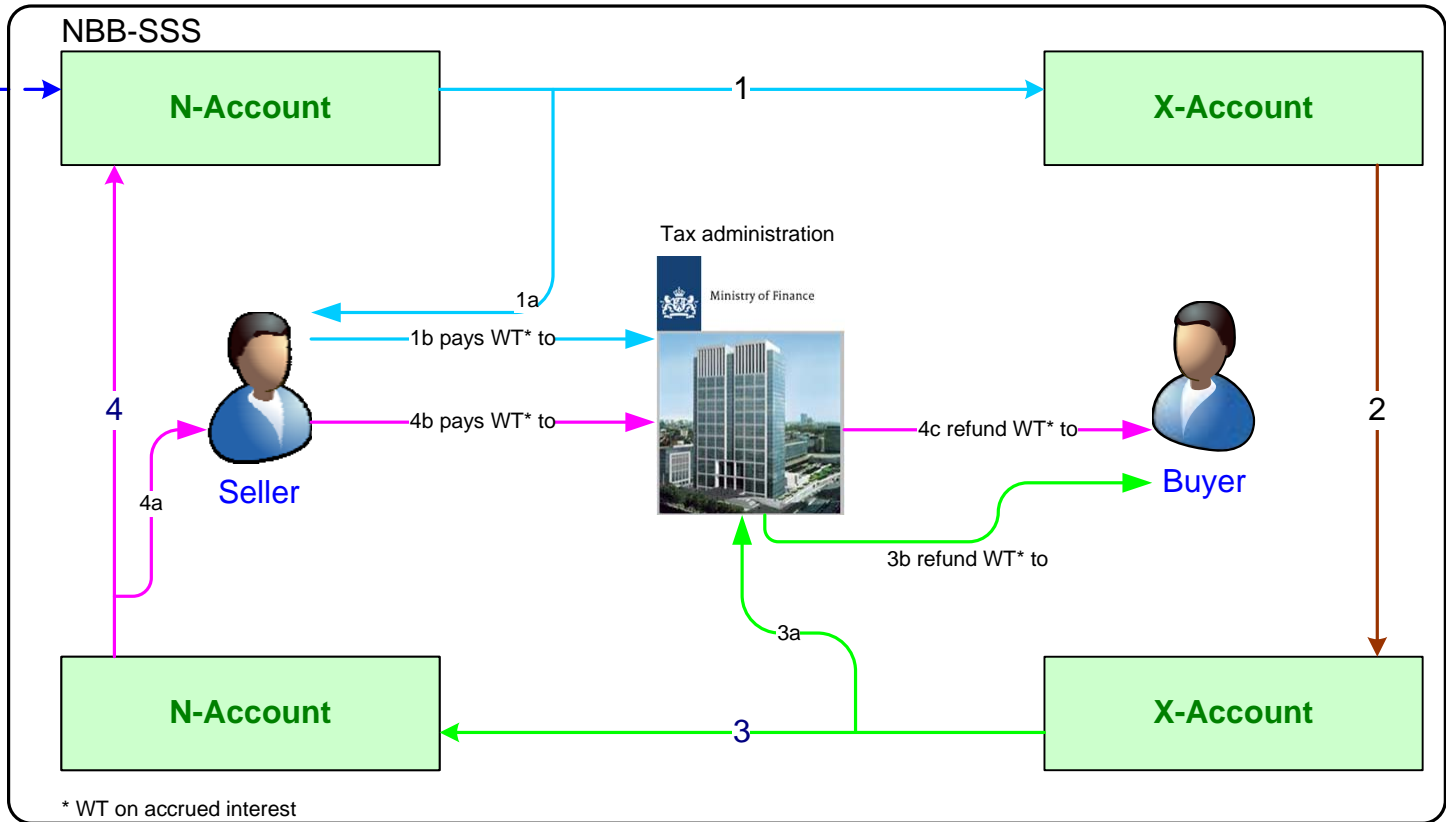


# X/N scheme



## DESCRIPTION X/N SETTLEMENT

### Taxation rules for the operation of the NBB-SSS mentioned in article 1.1° of the law of 6 August 1993 on transactions in certain fixed-interest securities

#### 1. APPLICATION OF THE PROVISIONS OF THE LAW OF 6 AUGUST 1993 ON TRANSACTIONS IN CERTAIN SECURITIES TO PARTICIPANTS IN THE NBB-SSS AND THEIR ACCOUNT-KEEPING CUSTOMERS.

1. By the Royal Decree of 14 June 1994<sup>1</sup> the NBB-SSS managed by the National Bank of Belgium was approved in accordance with article 15 of the law of 6 August 1993 on transactions in certain securities<sup>2</sup>.

Consequently, transactions in the NBB-SSS are subject to the tax provisions of the above-mentioned law of 6 August 1993 and of the implementing decrees<sup>3</sup> (hereinafter referred to as “X/N system”), except for those which remain subject to ordinary tax law (see further on, point II).

This annex may be amended as a result of new legal measures or regulations.

Taxation is governed solely by legal provisions and regulations and by the circulars of the Direct Tax Department. The manager of the X/N system (hereinafter referred to as the “X/N manager”) may give instructions to the participants in order to ensure proper application of the tax rules and proper operation of the system.

2. Participants and their account-keeping customers become subject to the tax provisions of the X/N system as soon as they carry out transactions governed by the rules of the X/N system. It is incumbent on the participants to provide their account-keeping customers with appropriate information on the operation of the X/N system and the rights and duties resulting from this participation.

The X/N system relates solely to participants, and consequently all transactions of collecting and refunding tax take place solely through them. Participants expressly accept this task of acting as intermediary vis-à-vis their account-keeping customers and guarantee the proper performance of that task.

3. The list of the securities accepted in the NBB-SSS is published on [www.nbbsss.be](http://www.nbbsss.be) and available through the NBB-SSS Ramses GUI.

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<sup>1</sup> Moniteur belge/Belgisch Staatsblad 1994-06-17.

<sup>2</sup> Moniteur belge/Belgisch Staatsblad 1993-08-18.

<sup>3</sup> Royal Decree of 26 May 1994 on the collection and refunding of the withholding tax in accordance with chapter 1 of the law of 6 August 1993 on transactions in certain securities, as amended by the decrees of 1995-01-23, 1995-12-15, 1996-05-07, 11.12.1996 and 1998-09-06.

4. The X/N manager is authorised to establish a scale of charges specific to the X/N system.
5. If, by virtue of article 14 of the Royal Decree of 26 May 1994, the refund equal to the withholding tax is carried forward, the transactions of the NBB-SSS will take place from that day onwards under the system of the deduction of an amount equal to the withholding tax between the parties. The parties will themselves assume responsibility for this deduction unless the X/N manager announces that the X/N system will carry out this application on behalf of the parties.
6. In the event of non-compliance by the participants with the administrative formalities laid down by the taxation laws, the X/N manager is authorised to carry out unilaterally at the expense of the participants the legal applications required by the law of 6 August 1993, such as, inter alia, the collection of the withholding tax or the recovery of the refund equal to the withholding tax.
7. For all amounts due as a result of participation in the National Bank of Belgium's X/N system, including the tax corrections resulting therefrom (see point 9 below), the participants confirm that they accept the application of the National Bank's Current Account Regulations, both for the transactions for their own account and for those for account of third parties.
8. The participants undertake to agree on these obligations with their account-keeping customers.
9. Except for the application of article 6 bis of the Royal Decree of 26 May 1994, the rules of article 6 of the said decree are also valid for account-keepers established outside Belgian territory. The tax identification certificates (see annex 3.1) are transmitted by the latter to the X/N manager or the Belgian participant through whom they participate in the system.

## **2. MANAGEMENT OF TRANSACTIONS IN SECURITIES.**

The NBB-SSS carries out both transactions subject to the X/N tax system and transactions subject to ordinary tax law.

The X/N tax rules are applicable only from the depositing of these securities in the X/N system and their entry in a securities account in the NBB-SSS. When these securities circulate outside the X/N system, transactions in them are subject to ordinary tax law.

### **3. SECURITIES ACCOUNTS EXEMPT FROM WITHHOLDING TAX (X ACCOUNTS).**

#### **3.1 Opening of an X account.**

The investors authorised to hold a securities account exempt from withholding tax are enumerated in article 4 of the Royal Decree.

When an X account is opened, the investor must send to the institution acting as account-keeper, in accordance with article 5 of the Royal Decree, a certificate (see annex 3.1) whereby he declares that he belongs to one of the categories of investors entitled to claim exemption from the withholding tax listed in article 4 of the Royal Decree<sup>4</sup>. This certificate must be kept by the account-keeper and held at the disposal of the Direct Tax Department.

Account-keepers established abroad must send these certificates to the National Bank of Belgium or to their Belgian participant which holds them at the disposal of the above-mentioned Department.

In accordance with article 4, last paragraph, of the Royal Decree, investors entitled to an X account can only open an X account.

Derogation: public debt securities referred to in article 4, first paragraph, section 10 of the Royal Decree.

For the categories of investors mentioned in article 4, first paragraph, sections 3 and 10<sup>5</sup> of the Royal Decree, the Minister has published a notice containing a non-limitative list of the categories of investors permitted to hold an X account for the above-mentioned public debt securities<sup>6</sup>.

Investors not included in this list who believe that they should also be considered for these specific categories may make an application, duly supported by reasons, to the Direct Tax Department.

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<sup>4</sup> A derogation is provided for in the case of certain institutions in article 6 bis.

<sup>5</sup> Royal Decree of 11 December 1996 (Moniteur belge/Belgisch Staatsblad of 1996-12-14).

<sup>6</sup> Notice concerning the withholding tax, Moniteur belge/Belgisch Staatsblad of 1997-02-01, page 1963.

The exemption referred to here is optional. It is granted only following an application for the opening of a securities account by the rightful owner and is valid only from this application onwards, without any possibility of regularisation for the past. If this investor was already the holder of a non-exempt account (hereinafter referred to as an “N account”) or if he already held the securities outside the system, the withholding tax will be deducted from the incomes from movable assets accrued when the transfer to or deposit on the X account was made.

### **3.2 Operation of the X account**

For the owners of an X account, the X/N manager pays the gross interest at the **due date of the coupon**. Furthermore, no withholding tax is collected on **accrued incomes** by transactions carried out between two due dates from X accounts.

A special feature with regard to the withholding tax for holders of an X account concerns the **entry** of securities into the system and the **exit** of these securities from the system as described in article 3.2.14 of the regulations.

In the case of an **entry** on an X account, the withholding tax is deducted on the accrued incomes. The holder of the X account can, if appropriate, recover this withholding tax in accordance with the ordinary law applicable to his case. The deposit may be made with exemption from withholding tax when the provisions of article 13 of the Royal Decree of 26 May 1994 are applicable (see annexes 3.2a and 3.2b).

In the case of an **exit** from an X account, a refund of withholding tax is granted to the account-holder for the period of accrued incomes under the X/N tax system. However, this refund is paid only upon the next due date for interest or upon final maturity (capitalisation bond or zero coupon). When incomes from movable securities are collected from securities which have been withdrawn from the system, the withholding tax will always be collected. As quickly as possible after an exit, the participant must send to the X/N manager the list of names referred to in article 16, paragraph 1,3° of the Royal Decree (see point 7 below).

## **4. SECURITIES ACCOUNTS NOT EXEMPT FROM WITHHOLDING TAX (N ACCOUNTS).**

### **4.1 Opening of an N account.**

**N accounts** are intended for investors who cannot hold an X account. These investors are subject to individual or legal entities income tax, with the exception of the institutions referred to in article 4, 10° of the Royal Decree<sup>7</sup>.

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<sup>7</sup> See point 3.1 above.

## **4.2 Operation of the N account**

On the **due date for interest**, the X/N manager deducts the withholding tax from the gross incomes paid to holders of N accounts.

For **transactions between two due dates**, the withholding tax is collected from the accrued incomes by a deduction applied to the holder of the N account who sells the securities, and a refund equal to the withholding tax on the accrued incomes is granted by a payment to the holder of the N account who buys the securities.

Transactions between holders of N accounts with one and the same participant can, but do not necessarily have to be, notified to the X/N manager.

When a **deposit of bearer securities on (or a withdrawal from) a non-exempt account is made**, no withholding tax is either collected or refunded.

## **5. CALCULATION OF ACCRUED INCOMES FROM MOVABLE SECURITIES.**

Accrued incomes from movable securities are calculated according to the rules laid down by articles 8 to 11 of the Royal Decree.

The interest rate used for the securities issued on a discount basis is the weighted average annual yield on the first issue of the securities in question and not the average of the annual yields of each issue, so that the incomes reported by the X/N manager to the issuer in accordance with article 16, paragraph 1, 1° of the Royal Decree may differ from the amount of the expenses that the issuer may deduct.

The yield referred to in articles 8 to 10 of this decree must be calculated on the basis of the cost for the issuer. Exceptionally, account may be taken of commissions or other expenses when they result from a written issue agreement applicable without distinction to the entire loan and to all investors or intermediaries.

If the characteristics of the securities or the issue conditions do not correspond to those of the cases referred to in articles 8 and 9, the Minister of Finance or his delegate will determine the calculation rules by analogy.

The incomes from securities denominated in a currency whose country of issue has not adopted the euro in accordance with the Treaty establishing the European Union are, for the settlement of the withholding tax, converted into euros on the basis of the indicative rate for that currency published by the European Central Bank or the National Bank of Belgium two bank working days before the tax date (article 7 of the Royal Decree of 23 January 1995).

## **6. FORBIDDEN SPECIFIC TRANSACTIONS OF AN N ACCOUNT.**

Repurchase agreements, swap of securities and exchange of securities are not allowed to be carried out with securities booked on an N account<sup>8</sup>. Similarly, securities whose principal amount is separated from the coupons (“strips”) cannot be entered on an N account<sup>9</sup>.

## **7. LATE SUBMISSION OF LISTS BY PARTICIPANTS.**

With regard to the postponed refunding connected with the withdrawal of securities from the system by an investor exempt from withholding tax, the X/N manager will recover the refund if, after the granting or payment of the incomes, the list of names referred to in article 16, paragraph 1, 3° of the Royal Decree (see annex 3.3) is not in its possession. First, the participant will be warned of the absence of this list 15 calendar days after the due date. If, after 5 further calendar days, the list has still not been provided, the withholding tax is automatically recovered.

Except when article 6 bis of the Royal Decree is applicable, the X/N manager will inform the Direct Tax Administration of the account-keepers which have not sent by 15 January at the latest the list of names of all the holders of one or more securities accounts exempt from withholding tax during the past calendar year (article 6 of the Royal Decree).

## **8. INTEREST ON ARREARS.**

The provisions of article 414, paragraph 1 of the Income Tax Code 1992 with regard to arrears are applied to the withholding tax on the incomes paid on a due date. The amounts are settled via the Federal Public Service of Finance.

## **9. PROCEDURE AND FORMALITIES RELATING TO TAX CORRECTIONS.**

The provisions mentioned here revoke and replace all preceding regulations concerning corrections, including those mentioned in circular 4/96.

The X/N manager is authorised to carry out on TARGET2 business days the corrections which are necessary in accordance with the rules laid down by the Direct Tax Department and/or at the request of participants.

The procedure described below is applicable for executing these corrections.

When a participant corrects an error by means of a correcting instruction, it must always send to the X/N manager [32 (0)2 221 31 20 the “tax correction date” fax or secure e-mail (see annex 3.4), giving the reasons with the most relevant details and the data concerning the transaction as well as any transaction giving rise to the correction.

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<sup>8</sup> Art. 12 of the Royal Decree of 26 May 1994.

<sup>9</sup> Art. 11 of the law of 6 August 1993.

The X/N manager verifies the corresponding correction, including, if necessary, with the other party, and, if appropriate, calls for any additional information required. If no adequate response is received within 5 bank working days to a request for additional information, or if the manager considers that the information supplied is insufficient, the correction is refused and the manager, if appropriate, informs the Direct Tax Department and the participant in question.

When a correction concerns a transaction which has already been settled and which can no longer be rectified by means of a correcting notification and the associated "tax correction date" fax or secure e-mail, a participant who does not wish to make the correction request to the Direct Tax Department himself requests the X/N manager in writing to make the correction. He must state the reason and communicate the data concerning the transaction and also concerning any transaction which has given rise to the correction.

As appropriate, he will provide additional information and/or supporting documents for this purpose.

The manager will make the correction after having verified the transactions relating to the correction, in order to ensure that all connected transactions are corrected in a consistent manner, with the agreement of the other parties concerned. Where appropriate, the manager will transmit the required information, especially the history of the transaction to be corrected and the necessary supporting documents, to the Direct Tax Department.

When requests for corrections are refused, for whatever reason, by the Direct Tax Department, the participant will accept the reversing of the entries without being entitled to claim any compensation from the X/N manager.

## **10. CODING OF X/N TRANSACTIONS.**

### First character

### Second character

#### Reason for transaction

#### Nature of transaction

1. current transaction
5. cancellation
9. correction

1. debit of N account
2. credit of N account
3. entry materialised security in X account
4. exit materialised security from X account
5. payment of coupon
6. interest income on a security without coupon
7. redemption premium.

In the e-mail giving the details of the withholding tax, this code is preceded by the letters XN.



## **11. CODING OF THE DETAILS OF THE WITHHOLDING TAX (SEE ANNEX 3.5).**

The e-mail giving the details of the withholding tax is sent on the first bank working day following the date on which the withholding tax was paid. This e-mail consists of three parts:

### *A. withholding tax paid with the settlement system transactions:*

- a) Current transactions:  
XN11, XN12, XN13, XN15, XN16 and XN17;
- b) Deferred payments of withholding tax:
  - XN14;
  - XN12 in cases of lifting of suspension of a withholding tax refund;

### *B. withholding tax paid outside the NBB-SSS:*

this relates to cancellations and corrections, i.e. X/N transactions whose first code character begins with 5 or 9;

### *C. withholding tax which is not paid immediately:*

- a) withholding tax refunded on the next due date:
  - XN14 and XN94;
  - in cases of suspension of refunding of withholding tax: XN12 and XN14;
- b) withholding tax not refunded owing to a cancellation:
  - XN12 and XN14 cancelled before payment for them has actually been made.

Each part of the e-mail (A, B and C) is sent only when one or more transactions has/have taken place.

In order to facilitate the internal checks of the recipients of the e-mail, the e-mail mentions, by value date and ISIN code, the year and dispatch number, the code of the X/N transaction, the nominal amount to which the transaction relates, the amount of incomes on which the withholding tax is calculated and the withholding tax. While the nominal amount and the amount of incomes are denominated in the currency of the security, the withholding tax is denominated in euros.