

Efficient tax structures Gibraltar - Netherlands Antilles

This bulletin forms part of our Gibraltar efficient tax structures alerts covering interesting international jurisdictions. Our previous alerts cover efficient tax structures with Morocco, Switzerland and the Netherlands.

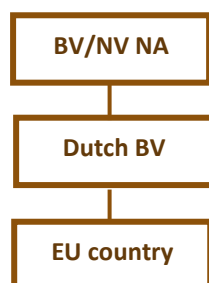
Introduction

The Netherlands Antilles and Spain have signed a bilateral Tax Information Exchange Agreement (TIEA) on 10 June, 2008, which came into force on 27 January, 2010. As a result, the Netherlands Antilles have been excluded from the Spanish 'black list' of tax haven jurisdictions.

These changes together with the existing Gibraltar tax legislation can be used efficiently with either new or existing structures.

Existing structure

The structure illustrated below is commonly used to reduce Dutch dividend withholding tax on dividends distributed from the Netherlands to the Netherlands Antilles.



- Dividends/capital gains received by the Dutch BV may be exempt from Dutch corporate income based on the Dutch participation exemption;
- Dividends from the Netherlands to the Netherlands Antilles are subject to **8.3%** dividend withholding tax;
- The Netherlands Antilles company may receive these dividends exempt from corporate income tax based on the Netherlands Antilles participation exemption;

- The Netherlands Antilles entity can distribute dividends to the shareholders free of withholding tax.

Tax efficient structure

To maximize the tax efficiency of the structure, one may interpose a Gibraltar entity as the parent entity of the Dutch subsidiary as illustrated below.



The effect of this is a further reduction of the Dutch withholding tax on dividend distributions to the Netherlands Antilles from the Netherlands via Gibraltar from 8.3% to 0%.

- Dividends from the Netherlands to Gibraltar are exempt from withholding tax based on the recent changes in the Netherlands to the Dividend Withholding Tax Act 1965;
- The Gibraltar entity may receive these dividends exempt from corporate income tax based on the Gibraltar participation exemption;
- The Netherlands Antilles company may receive these dividends exempt from corporate income tax based on the Netherlands Antilles participation exemption;

Category II Individuals

Further to the circular of 29 September 2008 by the Gibraltar Finance Centre, the above structure may be used by a Category II Individual owning a Gibraltar entity.

A Category II Individual may receive director's remuneration in addition to dividends from a Gibraltar entity as long as the Gibraltar entity is not in competition with other businesses in Gibraltar.

In combination with the Category II status, a private client may benefit from the structure in the circumstance that assets are located

in the Netherlands or/and the Netherlands Antilles by using the Gibraltar jurisdiction where the personal income tax liability is fixed between £20,000 and £ 24,500 (2009/2010) subject to certain conditions.

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