

Morocco/Gibraltar structure

This bulletin summarises the key aspects of the Moroccan taxation and highlights some interesting Moroccan/Gibraltar structures.

Corporate income tax

The standard corporate income tax rate in Morocco is 30%. The corporate income tax rate for credit institutions, leasing and insurance companies is 37%. Non resident companies can, under certain conditions, opt for an alternative tax rate of 8% applicable to the value of the deals. Companies are always subjected to a legal minimum tax of 1,500 MDA or 0.5% of the annual turnover.

Participation exemption

As of 1 January 2008, the participation exemption in Morocco is also applicable to dividend derived from foreign subsidiaries. The original participation exemption regime granted 100% allowance to a Moroccan recipient company of Moroccan source dividends.

This new regime will facilitate the repatriation of foreign funds located abroad for reinvestment in Morocco and the use of financial and holding structures.

Benefits

Export companies, companies selling finished goods to other companies established in 'export platforms' and hotels in Morocco are not subject to corporate income tax during the first 5 years after taking up residence or after set up. In addition, from the sixth year and for an unlimited period of time, the aforementioned companies and hotels will be subject to a corporate tax rate of 17.5%.

Furthermore, export companies operating in specified provinces or established within the Tangier administrative department are subject to

8.75% as of 1 January 2008 until 31 December 2010. As of 1 January 2011 the corporate income tax rate of 17.5% will apply.

Offshore tax regime

Holding companies established in Morocco that only manage participations or portfolio securities are subject to an annual flat corporate tax of only \$ 500. Other conditions that have to be met are that the holding activities should be undertaken on behalf of non-residents in foreign currencies and the capital of the holding companies should be held in a foreign currency.

Treaty network

Morocco has signed new tax treaties with Austria, Russia, Turkey, Romania, Malta, China, Czech Republic, Lebanon, United Arab Emirates and Malaysia. Furthermore, Morocco has tax treaties in place with European countries such as the Netherlands, France, Spain, Portugal and Switzerland.

VAT

The standard VAT rate in Morocco is 20%. However, leasing companies will be entitled to a refund of VAT where the input tax exceeds the output tax. Next to the standard tax rate, there are three reduced rates of 14%, 10% and 7% applicable, depending on the products and services offered.

Holding structure

For companies doing business in Europe and in Africa, Gibraltar can provide many strategic benefits. Gibraltar provides an excellent platform for European and global holding company structures in

particular when used with the Moroccan offshore tax regime.

A Moroccan/Gibraltar holding structure can provide for an excellent structure as dividends received from qualifying participation are not liable to taxation in Gibraltar nor in Morocco.

This means as long as there is one qualifying participating interest, any distributed dividends by the other non-EU subsidiaries are not liable to taxation in Gibraltar.

A qualifying participation is a direct or indirect interest in the voting share capital of another body corporate registered in the EU of at least 15% until 31 December 2008 and 10% as of 1 January 2009.

There is no withholding tax on dividends paid in Gibraltar. However, a company must submit a return of dividend paid within 30 days following the year end of each year of assessment.

Financing structure

A Moroccan/Gibraltar financing structure can also provide for a beneficial structure as interest income with a loan situs outside Gibraltar is not taxable in Gibraltar. The situs of a loan will depend upon:

- The place of residence of the debtor

- The source from which the interest is paid
- The place where the interest is paid
- The nature and location of the security for the debt

Where there is no subjection to tax on interest paid, there is also no duty to withhold tax either. In some situations, this structure might be considered complementary to the use of the extensive Moroccan treaty network.

Capital gains tax

There is no capital gains tax in Gibraltar.

VAT

There is no VAT in Gibraltar.

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