

The Netherlands/Gibraltar structure

This bulletin summarises the benefits of using the Netherlands and Gibraltar tax regimes based on the latest tax developments in the Dutch Dividend Withholding Tax Act and the Dutch tax Budget 2010.

Holding structure

A Dutch/Gibraltar holding structure can now provide for an excellent structure for holding companies and intra-group financing activities since the recent changes in the tax system in the Netherlands.

As of January 1, 2010 the scope of the withholding exemption in the Dutch dividend withholding tax Act has been extended which means that now dividend payments to a Gibraltar parent are possible without suffering withholding tax on distribution in the Netherlands.

Benefits

Dividends, bonus shares, hidden profit distributions and capital gains from Gibraltar participations are tax exempt in the Netherlands as long as the participation is intended not to be held as a mere portfolio investment.

If there is an active involvement in the central management of the parent company regarding the strategies of the subsidiary and the assets and business of the subsidiary are in line with the business of the parent company, the participation exemption will be applicable to a Gibraltar subsidiary.

If the previous conditions are not met, the participation exemption may still be applicable when the Gibraltar subsidiary is subject to a corporate income tax of at least 10% profit tax or when the 'asset test' is met.

Based on the Parent Subsidiary Regulations 2008, dividends and capital gains are tax exempt in Gibraltar subject to conditions and no tax will be withheld on outbound dividends.

Financing structure

The Netherlands/Gibraltar corporate structure can combine holding and financing activities.

Gibraltar has in general a low overall effective tax rate on income from financing activities. In some cases, the interest income can even be exempted based on an advanced tax ruling. Gibraltar does not levy withholding tax on interest under an advance tax ruling.

In the Netherlands, no withholding tax on outbound interest is levied.

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