

THE AGN EUROPEAN REGION -- 2005 Survey of Holding Company Jurisdictions --

Accountants Global Network (AGN) International is an association of separate and independent accounting and consulting firms, represented in 80 countries with 500 office locations and 10,000 partners and staff. The AGN European Region conducts annual surveys of corporate taxes, corporate structures, value added taxes (VAT), salary taxes and inheritance taxes. These surveys have been produced for a number of years and provide interesting comparisons and insight into trends.

Holding companies are used to minimise the tax impact on trading profits and disposals of subsidiaries by companies which trade in several countries. The objective of the survey of holding company jurisdictions is to compare and contrast the conditions for the exemption of dividends and capital gains and to try to identify the most useful and flexible jurisdiction to place a holding company.

The 2005 survey covers almost the complete European Region, especially the western and southern holding company jurisdictions. Most of these jurisdictions are joining the European Union. In 2004 the biggest ever enlargement of the European Union took place, with 10 new countries joining, and three of these countries, Czech Republic, Malta and Cyprus are included in this year's survey.

Dividend income (re: foreign subsidiaries)

Most holding company jurisdictions apply a full dividend income exemption system for qualifying dividend income from foreign subsidiaries. However, in some jurisdictions like Malta and The UK dividend income is fully taxed and a tax credit applies.

Otherwise, in Belgium, Germany, France and Italy only 95% of the dividend income is exempted.

Dividend income in Gibraltar is fully taxed, and no tax credit applies because the corporate income tax rate is 0%.

Overall, surprisingly is to see that almost half of the members of the European Union have not yet implemented the latest changes on the new Parent Subsidiary Directive.

Dividend withholding tax credits (re: foreign subsidiaries)

In case of distributing the dividend income from a foreign subsidiary (for example USA, French, German and Swiss) to a holding company jurisdiction, some holding company jurisdictions grant a dividend withholding tax credit.

A tax credit for the withholding tax on dividend income from a USA participation for example is received in Luxembourg, Malta, The UK, France, Italy and Portugal.

For the withholding tax on dividend income from a French and German participation, in Malta and The UK a tax credit is granted.

A tax credit for the withholding tax on dividend income from a Swiss participation is received in Malta, The UK, Italy and Portugal.

Capital gain (re: foreign subsidiaries)

Capital gains resulting from the sale of shares in qualifying foreign subsidiaries are fully tax exempted in most holding company jurisdictions. However, in some jurisdictions capital gains are fully taxed and a tax credit applies.

In Germany only 95% of the capital gains are exempted as in Portugal only 50% is exempted.

In Malta the capital gain is taxed at 35%, but the tax is at the end reimbursed to non-resident shareholders. Otherwise, in Greece the capital gain is only taxed at a rate of 35% in case of a distribution of the capital gain.

In Gibraltar capital gains are fully taxed, and no tax credit applies because the corporate income tax rate is 0%.

In France capital gains are taxed at a rate of 19%, while the standard corporate income tax rate is 34,33%.

Investment write down (re: subsidiaries)

Investments can be fully written down only in the jurisdictions of Austria (in a period of 7 years), Germany, Spain, Luxembourg, Malta, Switzerland and Gibraltar.

In The Netherlands investments could only be written down temporarily (for the first five years).

Interest deduction

Interest paid on a loan of the parent company to participate in foreign subsidiaries, can be fully deducted in most jurisdictions, mainly as a consequence of the decision of the European Court of Justice in the Bosal case.

However, interest paid on a loan of the parent company to participate in foreign subsidiaries is still not deductible at all in Cyprus and Greece.

Interest withholding tax

A interesting development occurs in taxation on interest. Most of the southern and eastern countries have this kind of taxation of which the rate varies from 12,5% in Italy to 20% in The UK, Greece, Ireland, Russia and Portugal. On the other hand most of the north –west European countries do not levy a withholding tax on interest at all.

Corporate income tax payable

The corporate income tax due on taxable profit differs from 0% in Gibraltar (otherwise, a fixed tax of GBP 225) to 35% in Malta.

In Switzerland the rate for holding companies is 7.83% and in Cyprus the corporate income tax rate is 10%. In most of all other jurisdictions the corporate income tax rate differs from 25% in Portugal to 35% in Malta whereas you see an overall tendency to lower the rate towards or below the 30% limit.

Dividend withholding tax (re: non-resident parent company)

In most of the jurisdictions a withholding tax on dividend applies in case of distributing a dividend to the non-resident parent company of the holding company jurisdiction. The rate varies from 15% to 35%.

No dividend withholding tax applies by distributing a dividend to the non-resident parent company in Cyprus, The UK, Gibraltar and Greece.

Net cash receivable by non-resident parent company

The net cash receivable by a non-resident parent company of the different holding company jurisdictions can be divided in five categories:

1. Net cash receivable 60%-70% of the commercial profit before tax: France, Greece, Italy, Portugal, Russia, Sweden and Switzerland;
2. Net cash receivable 70%-80% of the commercial profit before tax: Austria, Belgium, Czech Republic, Germany, Luxemburg and The Netherlands;
3. Net cash receivable 80%-90% of the commercial profit before tax: Ireland, Spain and the UK;
4. Net cash receivable 90%-100% of the commercial profit before tax: Cyprus;
5. Net cash receivable 100%-111% of the commercial profit before tax: Malta and Gibraltar.

CONCLUSIONS

Most holding company jurisdictions apply a full dividend income and capital gains exemption system. In the holding company jurisdictions where the exemption system does not apply for dividend income (like Malta and The UK), a tax credit is granted.

The investment in non-resident subsidiaries can only be written down in Austria, Germany, Spain, Luxembourg, Malta, Switzerland and Gibraltar.

Interest paid on a loan of a parent company to participate in foreign subsidiaries can be fully deducted in the holding company jurisdictions, except in Cyprus and Greece.

The corporate income tax due on taxable profit differs from 0% in Gibraltar (otherwise, a fixed tax of GBP 225 is due) to 35% in Malta.

In case of distributing a dividend to a non-resident parent company of the holding company jurisdictions, in most jurisdictions dividend withholding tax is due. No dividend withholding tax applies in Cyprus, The UK, Gibraltar and Greece.

From a tax point of view, and particularly with regard to a low tax burden and a short-term realisation of dividends from a holding company, a non-resident taxpayer would gain most benefit from a holding company in Malta, Cyprus or Gibraltar.

It may be necessary to establish a combination of holding companies in different jurisdictions to achieve all tax saving objectives.

Before taking or refraining from action in relation to holding companies, specific professional advice should be taken in the countries concerned.

Full details of the AGN 2005 Holding Companies survey, including a chart comparing the countries surveyed, can be downloaded from the internet at www.agn-europe.org or obtained free of charge from AGN Europe's head office at 5-6 Francis Grove, London SW19 4DT, telephone +44 (0) 8947 4888, e-mail info@agn.org.