

Switzerland/Gibraltar holding regime

This bulletin summarises the key benefits of the Switzerland/Gibraltar holding regime based on the application of the EU Directives concluded with Switzerland.

Holding structure

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

A Switzerland/Gibraltar holding structure can provide for an excellent structure for holding companies, intra-group financing and licensing activities.

Benefits

Dividends and capital gains from foreign participations are tax exempt both in Switzerland, under the participation exemption, and in Gibraltar, under domestic law.

Capital duty in Gibraltar is a flat rate of £ 10 and there is no capital gains tax or transfer tax on the disposal of shares. In Switzerland capital duty is levied at a cantonal level based on the capital and reserves of the company. The capital tax rates vary from 0.063% to 0.76%.

Switzerland applies the EU Parent Subsidiary Directive to Gibraltar as Switzerland has been included within the EU Parent Subsidiary Directive as of 1 July 2005.

Conditions

To qualify for the application of the EU Directives, the following conditions have to be met:

- The Swiss holding company must be a direct subsidiary of the Gibraltar company

- The Gibraltar parent company must hold at least 25% in the Swiss holding company
- The Gibraltar parent company must have additional operating participations and/or run an active business
- The Gibraltar parent company must be a Gibraltar resident company
- There must be a 2 year holding period prior to distribution

If required, a Swiss confirmative ruling can also be obtained from the tax authorities, which normally takes 4 to 6 weeks.

Financing structure

The Switzerland/Gibraltar holding structure can combine both 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 a non-situs loan ruling. Gibraltar also has no withholding tax on interest under domestic law provided that the situs of the loan is outside 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.

Swiss withholding tax on interest should be eliminated upon application of the EU Interest/Royalty Directive.

There are no Gibraltar or Swiss CFC rules.

Both Gibraltar and Switzerland have a flexible ruling system in place. Moreover, the Switzerland/Gibraltar financing structure can benefit from Swiss double taxation treaties.

Royalty structure

The Swiss/Gibraltar holding structure can combine both holding activities with exploitation of intellectual property.

Royalty income that is not accrued in or derived from Gibraltar is not taxable in Gibraltar. The Switzerland/Gibraltar royalty structure should benefit both from the application of the EU Interest/Royalty

Directive and from Swiss double taxation treaties.

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