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Alternative intermediary holding structures for international investment funds

Traditionally, jurisdictions such as the Netherlands, Luxembourg and Cyprus have been used by investment funds to hold underlying assets. The main advantage of these jurisdictions is that dividends and gains from subsidiaries are exempt from tax provided the conditions of the relevant 'participation exemption' are satisfied.

Any subsequent distribution of the income and gains by the intermediary holding company via dividend distributions is usually also exempt from withholding tax under either the EU Parent Subsidiary Directive or on the basis of the relevant double tax treaty.

Gibraltar, Hungary and Malta

Over the last couple of years we have used Gibraltar, Malta and Hungary as locations for intermediary holding companies. Provided the relevant conditions are satisfied, dividend income and gains from (local) subsidiaries are exempt from tax.

Malta and Hungary have extended their tax treaty network and benefit from reduced withholding tax rates with regards to dividend income received. Naturally, all three territories can rely on the EU Parent Subsidiary Directive and should, in principle, be able to benefit from dividend withholding tax exemptions on distributions from subsidiaries in EU member states.

In addition to the participation exemption, subsequent dividend distributions to non-residents are not subject to withholding tax. This can be of particular interest to investment funds based in tax haven locations that do not benefit from dividend withholding tax exemptions or reduced rates granted under double tax treaties or the EU Parent Subsidiary Directive.

Netherlands Co-operative

A Netherlands Co-operative has become more popular and is an interesting alternative to the typical Dutch BV. A Co-op can benefit from the extensive tax treaty network of the Netherlands and is also entitled to the Dutch participation exemption. In addition, distributions made to non-resident members are not subject to withholding tax.

Although a Co-op operates in a similar manner to a BV, it is a different legal "animal" and care should be taken when drafting the articles of associations.

Austria

Austria is an interesting intermediary holding location because its "participation exemption" also exempts dividend income and gains from trading subsidiaries located in tax havens. This is unique within the EU and provides significant structuring flexibility.

Norway and Sweden

Both Norway and Sweden are often overlooked for international planning but allow extremely versatile intermediate holding locations. Capital gains realised by resident companies on interests in non-resident companies and partnerships are generally exempt. In addition, dividends paid to shareholders within the European Economic Area are exempt from withholding tax. Both Norway and Sweden also have an extensive double tax treaty network.

The jurisdictions highlighted above are a selection of the flexible holding regimes available to investors. There is a significant (and increasing) level of competition in Europe to attract investment and it should encourage planners to think outside the "standard" holding jurisdictions of Luxembourg and the Netherlands. In the current market, we see this as a continuing trend.

If you would like to discuss alternative holding structures or other tax efficient alternatives for your business, please contact us on info@milestonetax.com

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