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Belgium – New Opportunities for Belgian Corporations in Hong Kong

Disclaimer: The following is a general introduction about the benefits a Belgian based corporation might obtain from appropriate use of the recent tax agreements. It does not intend to be a study for a specific case nor any particular recommendation or advice. Any application will require ad hoc analysis and reports.

On April 1, 2007, a new tax treaty came into force between China and Hong Kong. The treaty relies on the OECD model.

For Belgian companies, in combination with the tax agreement signed Between Belgium and Hong Kong on December 10, 2003, the treaty opens gates for investments in China and positive tax opportunities.

Belgium was the first country, besides China, with whom Hong Kong had signed a tax treaty.

Thanks to the specifics of that treaty, the Belgian “definitely taxed revenues” (DTR) may apply to dividends originating from Hong Kong. The First Instance Court of Brussels confirmed this on April 24, 2004 followed by the Ministry of Finance to the House of Parliament, on March 28, 2006. That will imply that only 5% of the dividends would be subject to the nominal tax rate in Belgium (around 34%)

According to the OECD model, a treaty will apply to the residents of each country. The Belgium – Hong Kong Tax treaty states that any company settled or managed in Hong Kong will be considered as a Hong Kong resident.

Consequently, Hong Kong companies subject to corporate tax may benefit from the tax treaty, even though they bear a reduced tax charge, i.e. the tax exoneration of offshore profits. Tax at source on dividends will not exceed 5% of gross amount paid to a company holding at least 10% of its subsidiary (for a minimum of 12 months). And the dividends will be exempted if the mother company holds at least 25%.

Reduced taxes will also apply to interest and royalties received from the Hong Kong subsidiary, and to capital gains. Under certain circumstances, the Belgian mother company will claim a tax credit or refund, from the Belgian Tax Administration, on Hong Kong withholding taxes.



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association of accountants and advisors.

Moreover a Belgian company setting up a subsidiary in Hong Kong will, in principle and generally speaking, benefit from the DTR regime on dividends obtained from the Hong Kong entity.

The Belgium – Hong Kong agreement also includes clauses on exchange of information and transfer pricing.

An example of the benefits from combining both agreements is as follows. Let's think of a Hong Kong company sending a consultant to a Chinese company for less than 6 months within a continuous period of 12 months. Such a situation would not create a permanent establishment in China and therefore no taxation would apply there. In Hong Kong, revenues would be considered as offshore (being effectively rendered in China) and not taxed. The net profit will be distributed to Belgium, minus 5% or 0% tax liability.

Another idea relates to interests, taxed at a maximum rate of 10%, or to royalties, taxed at a rate of 5%. Consequently, one might think of getting interest or royalties paid to a Hong Kong ad hoc corporation, for example a holding company. In Belgium, the withholding tax might be claimed to be deducted from other tax liability and eventually for tax refund.

In both cases, the DTR regime will then be applied, resulting sometimes in a tax rate lower than 2%.

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Cyprus – The Importance of Cyprus Holding Companies in International Tax Planning

Cyprus is a well-established International Financial Center at the crossroads of Europe, Asia and Africa. The stability of the tax and legal framework combined with the benefits enjoyed from being a member state in the European Union have led foreign investors to rank Cyprus high on the list of the International Financial and Business Centers. Additionally, the well-developed banking and financial services sector, the highly educated workforce and the excellent infrastructure facilities provide further comfort to investors who decide to utilize Cyprus in achieving their business goals.

The Cyprus Tax framework is in full compliance with the EU principles and the requirements of OECD against harmful tax practices. The main features of the tax system are as follows:

Corporate tax rate

Cyprus has the lowest corporate income tax rate, currently at 10%, in the European Union.

Exemption from tax on dividend income

Dividend income is exempt from tax irrespective of its source provided that:

- The company paying the dividend engages directly or indirectly in more than 50% of activities that give rise to non-investment income and
- The foreign tax burden on the dividend paying company's income is not substantially lower than the tax burden in Cyprus (substantially lower means lower than 5%).

Holding companies registered in Cyprus may also enjoy no withholding tax on dividends received from EU subsidiaries as a result of the utilization of the EU Parent Subsidiary Directive.

Interest income

Interest received in the ordinary course of business including interest closely connected to the ordinary course of business is taxed under income tax law after deducting expenses at the standard corporate income tax rate of 10%.

Interest received that does not satisfy the conditions above is subject to special defense contribution ('SDC') without expense deduction at the rate of 10%.

Capital gains and income tax exemption for securities

Cyprus does not impose income or capital gains tax on the profits and gains derived from the disposal of securities, irrespective of whether the profits and gains are considered to be of a revenue or capital nature.

Permanent establishment abroad

Profits from a permanent establishment maintained abroad are generally exempt from tax in Cyprus.

No withholding taxes

Dividends paid to non-resident shareholders are exempt from withholding tax in Cyprus. Also, no withholding tax is imposed on interest paid from Cyprus as well as on royalties paid from Cyprus with respect to intellectual property exploited outside Cyprus. The nil withholding tax rates apply irrespective of whether the recipient is a corporate body or an individual, the country of residence of the recipient or whether a relevant double tax treaty exists.

A wide network of double tax treaties

Cyprus has an extensive network of double tax treaties, currently with more than 40 countries. Most treaties provide for reduced or nil rates of withholding tax on dividends, interest and royalties paid out of the treaty country and the avoidance of double taxation in the case where a resident in one of the treaty countries derives income from the other treaty country.

Conclusion

The utilization of a Cyprus Holding Company in International Tax Planning is beneficial and can effectively lead to minimization of the overall tax cost for the investors.

*P. Constantinou & Co. Ltd, An Independent Member of Enterprise Worldwide
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Germany – “I Want to Create My Own Private Clinic.”

Note: This is a case study documenting GDS consulting services regarding international growth and funding of a healthcare entity.

Our client came to GDS - Finance Concept with this demand: “I want to create my own private clinic”. Our client is an internationally well-known orthopedist. In particular, in his field, the Endoprothetik, he is in a class by himself. But is his reputation regarding operations of artificial prostheses sufficient for the realization of a private clinic?

First of all, on the basis of a feasibility study, it had to be determined whether the project pays out financially. Therefore, a concept was developed according to the operator of the clinic, our client, to lease the building from an investor. The term of rent according to the contracts had to be long-term, because the building is considered to be a special real estate case and has therefore no other purpose than to be used as a clinic. For this, our client guarantees a firm net yield to the investor.

Our client already had an appropriate site for the construction in mind, which is situated in the middle of Cologne. The goals of the feasibility study were to convince an investor of the business model and to clearly explain the business model in order to safely place the financing of the clinical operating company.

For the feasibility study, extensive research was necessary. For plausibility, research is necessary for each business model regarding the turnover and the costs of the fundamental corner points. However in this special case, the German health care branch had to be considered because of the complex structures. The calculation of the medical treatment of doctors takes place in Germany due to the regulation of the ‘tariff for doctors’ (GOÄ). This tariff regulates the “liquidation income” which a chief doctor can charge to a private patient for a treatment.

Apart from this system of tariffs for the privately insured patients, the services of the hospital are calculated through the German system of the diagnostic-based groups (G-DRG; German Diagnosis Related Groups). The system was originally

developed in Australia and tries to make the services of operations and other treatments comparable between different hospitals with the goal to form a uniform price to set. This uniform price will be realized in Germany in 2010.

Therefore an appendix operation in Berlin will just cost as much as in Munich. By this systemic approach, the hospitals are to be motivated to save money and to be led by economic behavior. Unprofitable hospitals are reorganized by the uniform charge or they disappear in the long run.

The introduction of the DRG system is only one development of many, which concerns at present the German health market. The main cause of new, yearly changes to the legal health system in Germany is the demographic development, which promises everyone a long lifetime. However, no one knows who pays for the extreme rising health costs in the future. The services of the social health care insurance are reduced behind the back of the people. What remains is the grasp in their own purse. And, by then, you can use the renowned services of our client and his fellow colleagues in their private clinic. Furthermore, you receive their high-quality treatment in combination with an ambiance of a Five-Star hotel, which contributes, to your recovery.

On the way to the realization of the private clinic an investor had to be found. A Dutch investor was found by the vast network of the GDS group and convinced of the business model. A lease contract was negotiated which guarantees to the investor an above average net yield on his investment.

In the next step we secured the property rights of the building site in Cologne. Apart from the guidance of the legal affairs of the construction, we founded the company for the client and executed fiduciary responsibilities for the general management.

Since autumn 2007 the GDS – Finance Concept, an enterprise of the GDS Unternehmensgruppe, cares for the realization of the private clinic. The project now reaches a new phase. The construction of the hospital building began in October 2009. The start of the running clinic can be expected in the year 2010. If you need to have more information, please don't hesitate to get in contact with Uwe Diekmann or Max Schröpfer at the GDS – Finance Concept, a company of the GDS Unternehmensgruppe.

*GDS Unternehmensgruppe, Independent Member of Enterprise Worldwide
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Greece – Doing Business in the SEE Region Through Greece

About Greece

Apart from the current situation over the last 5 years, “Greece” has become the leading “investor country” in the Balkans Region. Particularly, in the current and prospective EU accession countries Bulgaria Romania and Serbia, where Greek corporate and institutional investment is capitalizing on the high rates of economic growth, rapid pace of political and regulatory reform, and a favorable tax environment.

The sector of buyouts and mergers in Greece is more intense during the last years due to the increased competition among companies in their effort to expand their market share or to differentiate their business. Greece fights to regain global confidence as the major investor player in the region. Greece outlines stability and growth with a development plan in order to evaluate business opportunities to the regional countries.

About the Region

SEE region is a dynamic, growing area with lots of opportunities that are arising in Bulgaria, Romania, Serbia, Croatia, Slovenia, Bosnia and Herzegovina, FYROM, Moldova, Kosovo and Albania.

These opportunities are coming mainly from the privatization that local governments decided for enterprises and state properties. They also come from the strategic location of these countries, which is crucial for transportation and logistic sectors.

About International Mergers and Acquisitions

International mergers and acquisitions are growing day by day. These mergers and acquisitions refer to those mergers and acquisitions that are taking place beyond the boundaries of a particular country. International mergers and acquisitions are also termed as global mergers and acquisitions or cross-border mergers and acquisitions.

Globalization and worldwide financial reforms have collectively contributed towards the development of international mergers and acquisitions to a substantial extent. International mergers and acquisitions are taking place in different forms, for example horizontal mergers, vertical mergers, conglomerate mergers, co generic mergers, reverse mergers, dilutive mergers, accretive mergers and others.

International mergers and acquisitions are performed for the purpose of obtaining some strategic benefits in the markets of a particular country. With the help of international mergers and acquisitions, multinational corporations can enjoy a number of advantages, which include economies of scale and market dominance.

International mergers and acquisitions play an important role behind the growth of a company. These deals or transactions help a large number of companies penetrate into new markets quickly and attain economies of scale.

Investment opportunities in Greece

- **Tourism.** Greece is one of the top tourism destinations in the world. Investors, who wish to be positioned in Greece and benefit from this dynamic growth location, may take advantage of cash grants or leasing subsidies of up to 60 percent of the overall investment cost or tax benefits of up to 100%.
- **Energy.** Greece's comprehensive energy policy, to establish sustainable, competitive and secure sources of energy, has established an encompassing regulatory and market framework for the energy sector. This, in combination with Greece's wide –ranging investment regulatory framework and the weather conditions (sun and wind), provides for exceptional opportunities for investment in a number of areas.
- **Technology/ ICT.** The Greek ICT sector offers a unique opportunity for investment in high end, value added services with a global reach, including the creation of software development centers and microchip design labs. Greece provides highly skilled, top –notch researchers and engineers at competitive salaries, in an environment with superior infrastructure and R&D support.
- **Food and beverage.** Food and beverage is the most dynamic and high- growth sector in Greek manufacturing and the Greek market has shown robust growth for almost a decade. Investment opportunities include boutique and niche market goods, the entire gamut of mass-market items, products marketed as “Mediterranean” and the exploding organic food sector. In addition, Greece is a well-known origin for olive oil, feta cheese, fruits, wine and honey among others. Those products travel all over the world and they are very well received due to their excellent quality.
- **Environmental Management.** Investment opportunities in waste management are exceptional. The expertise of foreign firms to meet the demands of the local market is a necessity. Greece is embarking on a long – term plan to overhaul its waste management practices. New technologies are needed to deal with an increasing burden of waste and that meet the demand for disposal, energy generation, recycling, and building new, closed loop systems that limit waste generation.

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Ireland – Ireland as a Base for European Business

Introduction

Ireland's position as a base for European Business is well established.

US, UK and other foreign multi-national corporations have located their operations here as well as numerous small & medium sized enterprises (SMEs).

This article sets out to identify the main reasons for this and to investigate whether the benefits in locating here still hold in the current changing world economic climate.

Companies such as Dell, Microsoft, Google, Hibernian Aviva, Palm Inc., Facebook and Intel have all made significant contributions to the success of Ireland's economy. This list reads as Ireland's "who's who" of the world's largest and most successful corporations. However, given the disastrous collapse in the world economy, has Ireland outlived its usefulness as a location in corporate business strategic planning?

Government Attitude to Foreign Direct Investment (FDI)

Being a small Island of 4.4 million people Ireland is economically dependent on external investment. Our government has shown in the past their commitment to their aim of securing FDI by various incentives.

Through the government sponsored body, Industrial Development Agency (IDA) they attract and develop Foreign Investment in Ireland.

The signs are that the current level of FDI still seems to be very healthy and even more importantly the level of world confidence in "Ireland inc." appears not to have abated.

Typical Trading Structures

The most common form of structure for doing business in Ireland is a company limited by share capital.

Unlike some European countries, Ireland has a low minimum share capital requirement of € 1, making it easier to get a new business up and running.

Alternatively foreign entities may use a place of business or branch structure i.e. a trading branch of their overseas registered limited company.

Taxation

Ireland's taxation system contains many incentives used in attracting overseas Investment to Ireland some of which make it easier to do business here.

Corporate taxation

Ireland has for many years had a flat 12.50% corporate tax rate applicable to Irish trading profits. This has been augmented by the introduction of a 0% rate for new companies for the first three years of trading, who were both incorporated and begun trading in 2009 (Limited to profits of € 320,000 p.a.). This has been a strong indicator of the importance that government places on FDI and the above 0% rate has been extended in the 2010 budget announced on December 9th 2009.

Personal

Ireland retains the benefits of remittance taxation basis so that non-Irish domiciled individuals are taxed only on foreign income and gains remitted here.

In effect from 01 January 2008 'foreign income' includes income arising in the UK.

Double Taxation Treaties

Ireland currently holds and continues to negotiate a network of double tax treaties that eliminate the need to pay tax twice on the same income/gains of international companies. There are currently agreements with 55 countries, of which 46 are in effect.

Value Added Tax

This is a consumption tax assessed on the value added to a product or service and applies to most goods and services that are bought or sold in the EEC. Goods and services that are exported are normally not subject to VAT.

Dividend & Interest Withholding Tax

Withholding taxes normally apply to payments of dividend and interest by an Irish corporation, with exceptions for

‘excluded’ and ‘non-resident’ persons. This aids the repatriation of profits to overseas jurisdictions giving the foreign shareholder a significant cash flow benefit.

Capital Gains Tax (CGT)

A significant exemption applies to the disposal of shares held in subsidiary companies. This benefits and provides incentive to parent companies to locate here.

Banking & Finance

There are more than 80 credit institutions in Ireland of which 11 are involved in retail banking and offer traditional banking services through a branch network. Most of these are publicly held companies with institutional investors holding the majority of shares.

The Irish banking system, like others across the world, have faced significant challenges during the past 12 months during the worldwide financial crisis although there are some signs that this has settled somewhat in the 2nd half of 2009.

Intellectual Property Framework - IP

Ireland's IP structure is considered to be one of the strongest in Europe and the main legislation seeks to protect patents, trademarks, copyrights and designs.

Conclusion

It is quite clear that there have been substantial changes in the European and World economy during the past 12 to 18 months. These have created significant uncertainty in the corporate business world, making it inherently more difficult to make forward planning decisions. Whilst Ireland has clearly been an excellent location for European trading in previous years this does not necessarily hold in such a dramatically changing environment. Question marks over possible Irish government changes in fiscal/taxation policy are natural in this light. However, whilst it has been a tough and unsettled financial year there are positive signs in both the multi-national corporate and SME business worlds that the benefits of locating a business in Ireland continue to stand. With government recognition of the importance in supporting FDI, it appears there are unlikely to be significant changes in legal & taxation structures that may adversely affect the current status of Irish-based foreign business. The examples of multi-national activity in Ireland this year alone coupled with the signs in my own practice amongst the SME market appear to suggest that Ireland continues to be a suitable strategic location for European business.

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Italy – New Opportunities for SMEs on the Italian Financial Market

AIM Italia is the Borsa Italiana market presence dedicated to small and medium-sized UE enterprises with strong growth potential. Based on the successful model of the London Stock Exchange's AIM, AIM Italia provides small and medium sized enterprises (SMEs) with the opportunity to access the community of international investors in a flexible and efficient way.

AIM Italia seeks to attract the most dynamic and competitive small and mid-cap companies by offering a solution that meets the specific needs of SME businesses. To do this, AIM Italia draws on the experience and know-how built up over the past 14 years with the London Stock Exchange in operating AIM the most successful growth market in the world, with over 1,400 companies quoted from 40 different countries.

Key features of AIM Italia

AIM Italia is a market regulated by Borsa Italiana and therefore not subject to supervision by the Control Authority (CONSOB). This means a company joining AIM Italia is not required to publish an information prospectus complying with the EU reporting directive. Following admission, the company's market operations are guided by a key participant: the Nominated Adviser (Nomad), responsible both for assessing whether the company is appropriate for the market, and

for supporting and advising it throughout its membership of the market. The Nomad is regulated by Borsa Italiana.

Why AIM Italia?

AIM Italia offers companies a unique mix of advantages:

- International visibility. AIM Italia builds on the success of AIM London, which capitalizes on London's sophisticated community of international investors, unique in Europe in terms of size and degree of specialization.
- Efficient regulation. AIM Italia is based on a regulatory framework designed to allow smaller companies to gain quicker access to the capital markets than ever before.

Tickmark Finance & Advisory is the ideal partner to provide a full array of services to the owners of businesses with a strong profit performance that intend to seek a market listing and in particular AIM Italia. Tickmark Finance & Advisory provides support and advice throughout the listing process. On these projects, the Company not only provides financial advisory services but also coordinates the various parties involved in the listing process and, in particular, takes care of dealings with the Nomad.

Tickmark Finance & Advisory mainly operates with some of the leading Nomads on the Register maintained by Borsa Italiana.



Tickmark Finance & Advisory in the AIM Italia Listing Process

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Netherlands – New IP Regime

Introduction

This past September, the government announced that, effective 1 January 2010; the innovation box will be substantially widened.

The idea underlying the innovation box is to make the Netherlands more tax-friendly for businesses with innovative activities. But what exactly makes this innovation box tax-friendly?

All income from the exploitation of self-developed know-how is subject to corporate income tax at an effective rate of 5%, whereas the R&D costs incurred to develop the know-how are deductible at the ordinary corporate income tax rate of 25.5%.

The following questions will be discussed in more detail below:

1. What exactly is meant by know-how?
2. Exactly how does the innovation box operate?
3. Why is the innovation box attractive to foreign companies?

1. Description of immaterial assets

The innovation box covers only technical know-how.

The legislator opted to have the innovation box only apply to know-how that is clearly related to “technical” innovation. This definition of know-how excludes trademark rights, photographer's copyrights, copyrights and suchlike from the application of the innovation box. According to the legislator, the success of a mark is more dependent on a good marketing strategy than on the technical, innovative element.

Technical know-how can be divided into patented and non-patented know-how. Companies that obtained a patent for inventions or technical applications, such as manufacturing and product know-how, after 1 January 2007, may apply the innovation box. This patent could be a Dutch patent or a patent obtained abroad.

However, there are companies who have developed technical know-how that cannot be patented, such as software and trade secrets. This category of companies may also make use of the innovation box on the condition that they dispose of an R&D statement. Such a statement is issued by the Ministry of Economic Affairs (Senter Novem).

2. Operation of innovation box

Costs

As described above, the R&D costs (production costs including exploitation losses) are deductible at the ordinary corporate income tax rate of 25.5%. The R&D costs need not be capitalized. However, the law does require that the R&D costs be recovered before the income arising from the R&D asset is taxed at the effective rate of 5%. This may be explained in the following example.

Example

- Company A obtained a patent in 2008.
- The costs incurred over the years to create this patent are as follows: 2002 (100), 2003 (150), 2004 (150).
- The following income is expected to be generated with this patent 2010 (50), 2011 (100), 2012 (250) and 2013 (400).
- Based on the deferral facility, the innovation box applies as from the year 2013.

Timing

As far as patented know-how is concerned, we would like to point out the following: According to the law, the innovation box can only be applied after a patent has been granted. Profits over the period that the patent application was pending can therefore not be allocated to the innovation box.

It is therefore advisable to first apply for an R&D statement with Senter Novem. Should the certified R&D activities subsequently result in exploitable know-how, any profits (after the recovery of the R&D costs) can be allocated immediately to the innovation box in order to benefit from the 5% rate.

As the procedure for obtaining a patent is usually extremely time consuming, in practice, companies will simultaneously apply for an R&D statement so that the income from the R&D asset concerned can be allocated to the innovation box in an earlier stage.

Allocation of income to the innovation box

The law requires that income “substantially” (30%) arise from the patent or R&D asset. In other words, the patent or R&D asset must contribute to the profit generated with the immaterial asset for at least 30%.

Income arising from marketing activities is not included in the innovation box. At the end of the year, the amount of income generated with the patent or R&D asset itself and the amount of income generated with the marketing activities must be assessed. It is advisable therefore to obtain an advance tax ruling from the Dutch tax authorities in which the correct income allocation is established so that any disputes later on are avoided.

3. Innovation box attractive to foreign businesses

Outsourcing

The innovation box covers self-developed know-how. However, it is not required that the NL IPCO physically develops the know-how itself each time. It suffices that the company takes the entrepreneurial risk of the development thereof. NL IPCO may therefore also act as the principal for contract R&D. In case of patented know-how, a Dutch company may for its own expense and risk contract a foreign group company or a third party (contract R&D) to carry out innovation activities. Contract R&D is only allowed on the condition that the Dutch company becomes the legal owner of the know-how. This is only possible for patented know-how.

Contract R&D seems out of the question for the development of an R&D asset. This has to do with the fact that an R&D statement will only be issued for development activities performed by a company's own R&D employees, who are on the payroll of the Dutch company.

Purchased know-how (regardless of whether it is patented or not) is not covered by the innovation box. Other tax efficient structures for the exploitation of purchased know-how are available in the Netherlands for that matter.

Withholding tax on royalty income

Contrary to most other countries, the Netherlands does not levy a withholding tax on royalties. The Netherlands has concluded tax treaties with approximately over 80 countries in total. With most countries, a reduced withholding tax on royalty payments has been agreed. For example, the Netherlands agreed on a 0% withholding tax rate on royalties with Luxemburg, Ireland, France, Belgium, Russia, UK, USA, Canada, and Sweden. With Portugal a percentage of 10% has been agreed on.

Where a Dutch company receives royalties from a foreign-based group company from which withholding tax has been deducted abroad, the Netherlands allows a credit for this foreign withholding tax. In that case the foreign withholding tax may be credited against the 5% Dutch corporate income tax on the royalties received.

In many cases the foreign withholding tax credit has the effect that the tax payable in the Netherlands is lower than 5% and in some cases is even nil. This is the case where the Netherlands applies the overall method, which means that royalty-flows from countries that do not levy a withholding tax and those who do may be mixed.

If NL IPCO, for example, receives 100 in royalties from country A, which levies a 10% withholding tax under the treaty with the Netherlands, and 200 in royalties from country B, which does not levy a withholding tax, the Dutch tax payable on these royalties amounts to 15 (5% of 300). So the full 10 of withholding tax levied in country A can be credited against the 15 Dutch corporate income tax. On balance, only 5 corporate income tax is payable in the Netherlands.

4. Combination with cooperation association

Although the profit from the exploitation of know-how realized by NL IPCO is effectively taxed at only 5%, this does not alter the fact that any profits distributed by NL IPCO are in principle subject to 15% Dutch dividend tax. Dividends paid to an EU-based parent company are usually not being subject to dividend tax (EU Parent-Subsidiary Directive). In addition, under a number of tax treaties concluded by the Netherlands (including the treaty with the US), the withholding tax dividends is reduced to zero.

In non-EU situations, the more general solution of inserting a Dutch cooperation association between NL IPCO and the foreign parent is often applied. Because of its legal form, a cooperation association has no obligation to withhold Dutch dividend tax. In such a situation, NL IPCO can distribute its profits to the cooperation association entirely free of tax (exempt domestic dividend payment). The cooperation association may subsequently pass on the dividend to the foreign parent without having to withhold any dividend tax.

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Switzerland – Effect on Banking Confidentiality

A short review: In 1998 the OECD started an initiative for the adjustment of offshore financial centers, the so-called “Harmful Tax Competition” initiative. Among the 41 identified countries, whose tax legislation systems permitted no fair competition throughout the world, the initiative also included Switzerland, Belgium, Liechtenstein and Luxembourg. Through the sharp approach of branding tax havens by the internationally published list, so-called OECD-“List of Uncooperative Tax Havens” most of these countries could be induced to giving in.

Many of these international financial centres had the justified fear of losing their banking confidentiality. The OECD has in mind to realize fair competition on one playing field for all countries through mitigating competitive advantages like banking confidentiality. This goal is achieved by conversion of the Double Tax Treaties between the individual countries to national law. Originally, Double Tax Treaties had the purpose to regulate the taxation in international affairs and thus to avoid any double taxation. The new OECD standard adds to such an agreement the following additional purpose. First, to prevent tax evasion and second, to mitigate the flight of funds.

A further example of an internationally broad implementation of the OECD-standard is the new “agreement between the Federal Republic of Germany and the government of the Principality of Liechtenstein over co-operation and information exchange referring taxation”, because it goes far beyond the banking confidentiality. After the new agreement becomes effective, it is made easy for the German tax officials, because merely a suspicious circumstance is sufficient by then. The goal of the German treasury is to reach the correct taxation of the taxpayer according to the actual taxation system and tax law, in addition to reduce the flight of funds, and to avoid tax evasion and tax fraud.

If in the past information was given only for the actual residence, now it concerns taxation related information that was secured by banking confidentiality. For instance, a transfer to Liechtenstein, or a bank statement of a foreign bank account, or an annual voyage to Liechtenstein is now sufficient for the tax officials, in order to circumvent banking confidentiality in Liechtenstein. This evidence provides the authorities enough suspicious circumstances in order to place an information request to the Principality of Liechtenstein.

In contrast, the banking confidentiality of Switzerland still shines bright. Switzerland has always given information in severe cases of tax evasion. Now, requests for information in other cases of tax evasion are new. The foreign tax offices are still restricted by the fact that for every new request the Swiss authorities still have to be given a justified suspicion of tax evasion.

In the future, Switzerland has to carry out legal assistance in cases of tax evasion for the German treasury. The question is whether the embodiment of the Double Tax Treaty with Liechtenstein is transferable to the Double Tax Treaty between Germany and Switzerland. In the negotiations of the adoption to the OECD-standards, Switzerland has clearly the better position than Liechtenstein. Nevertheless you shouldn't take any risks of discovery. We inform you gladly about the current conditions. If you should face a self-denunciation with impunity or a criminal prosecution of a tax offence regarding assets in Switzerland or other states, our advisers are available locally. We gained broad experiences dealing with the fiscal authorities in these delicate affairs and obtain the optimal result for you with which you can sleep calmly again. Your GDS – Switzerland.

Did you believe that your wealth abroad is lost?

An individual who inherits in these days not only has to conquer more and more complex death taxation laws, but increasingly is confronted with disappearing net assets. Was the deceased aunt perhaps not so rich? Where did all the money go from the uncle whom everybody admits lived so modestly?

In many cases there are concrete pieces of advice, for example a transfer of the house bank to Switzerland or an account statement of a financial establishment from the principality of Liechtenstein. Due to these traces, concrete banks can be contacted. Other cases are justified only by suspicious circumstances. For example, the deceased person visited Geneva or Zurich each year during his lifetime. Now if a part of the fortune is missing, the probability is very high that assets were transferred abroad.

Whoever looks for lost wealth for example, in Switzerland or Liechtenstein, can give an order for a search to the GDS - Switzerland. The persons only need to legitimize themselves as entitled with the official letters of administration. The price of the search depends on the size of the order and in particular, in which cities, regions or countries the fortune is assumed to be found. Gladly we can advise you individually to this topic, in order to ensure the optimal success in the search for your inheritance.

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Turkey - The Development of International Financial Reporting Standards in Turkey

The Turkish economy has been an emerging one during the last decades. So has been the Turkish Capital Market. Total number of companies listed in the ISE was over 300 and the shares of the foreign or international investors represented 66, 3% as of 2005. As well, there had been hyper-inflationary environments since the early 1970s. For some years, the annual inflation rate had been more than 100%. Having high inflation for over 30 years, the financial statements in Turkey have been considered useless tools in decision-making. The companies tried to benefit from the incentives in the Turkish Tax Regulation (i.e. LIFO, accelerated depreciation) to negate the effects of inflation till the year 2003. In recent years, this problem seems to be solved with the legislations about the mandatory application of inflation accounting and subsequently full IFRSs. Moreover, foreign exchange rates have been stabilized; interest and inflation rates have declined to reasonable levels since 2003.

The aim of the accounting regulations in Turkey was to protect the interests of the Treasury. Therefore, accounting practices for most companies in Turkey has been strongly influenced by the need to produce information to tax authorities. Besides this, there have been significant changes in accounting rules in Turkey. In an attempt to become a member of the EU, publicly traded companies in Turkey have been presenting their financial reports under IFRS since 2005.

The development of IFRS in Turkey has a long story. The most influential institutions affecting the development of International Financial Reporting Standards in Turkey can be cited as (1) The Expert Accountants' Association of Turkey (TMUD) (2) Capital Markets Board of Turkey (CMB) (3) Turkish Accounting and Auditing Standards Board (TMUDESK) (4) The Banking Regulation and Supervising Agency (BDDK) (5) Turkish Accounting Standards Board (TMSK).

The first attempt was made by the TMUD that was established in 1942. Following the establishment of International Federation of Accountants (IFAC) in 1977 (of which TMUD was a founding member) the TMUD translated all IASs and presented them to TMUD members. Since the TMUD had not been a powerful organization the implementation of International Accounting Standards Committee (IASC) standards was not very effective.

The forceful implementation of accounting standards came with the establishment of CMB that was empowered by the Capital Markets Law (CML), which was enacted in 1981. CMB was based on the Securities and Exchange Commission in the US and has extensive powers including specifying accounting standards for companies. The listed companies in the Istanbul Stock Exchange (ISE) have started to use accounting and reporting standards that were set by the Board. In 2001, the Board issued a communiqué on inflation accounting and a revised communiqué on consolidation of financial statements. The first financial statements prepared using these communiqués were published as of December 31, 2003. These regulations were fully compatible with the related IASs. Moreover, the Board issued a broad set of financial reporting standards that are mostly compatible with IASs and IFRSs in 2003. These standards became effective for listed companies from the beginning of 2005.

Another attempt was made by the TMUDESK, which was established in 1994. The members of this board were appointed by Union of Chambers of Certified Accountants of Turkey (TURMOB) and the representatives of the related institutions. From 1994 to 2001, TMUDESK has published 19 Turkish Accounting Standards, which were in conformity with the IASs. However, these standards could not be applied by companies due to lack of sanction.

BDDK which was established in 2000 after the banking crisis in Turkey was another regulatory body that set accounting standards for banks and financial institutions. The standards issued by BDDK in 2002 were compatible with IASs and IFRSs.

TMSK was established in 2002 by a legal regulation. This new Board has legal power for setting Turkish Accounting Standards and sanction for all companies in Turkey. The Board has been publishing accounting standards that are fully compatible with IASs and IFRSs.

All of the accounting standards published by these different regulators were similar in nature. However, a harmonization of accounting standards was needed within the country. For this purpose, BDDK abolished its accounting standards by issuing a regulation in 2006. BDDK decided that banks and financial institutions would use accounting standards published by the TMSK. In addition to that, CMB of Turkey abolished its accounting standards by issuing a communiqué in 2008. The communiqué requires listed companies in the ISE to prepare their financial statements compatible with IFRSs adopted by the European Union. The communiqué specifies that companies can use accounting standards published by the TMSK which are compatible with the IFRSs adopted by the European Union. Currently, TMSK became the only organization that published accounting standards, which are fully compatible with IASs and IFRSs. Moreover, the draft of Turkish Commerce Law requires not only public companies, but also all companies' to prepare their financial statements in accordance with the Turkish Accounting Standards that are compatible with International Financial Reporting Standards (IFRS).

Although the Turkish Accounting Standards Board (TASB) has adopted almost all International Accounting Standards (IASs) and International Financial Reporting Standards (IFRSs) as Turkish Accounting Standards (TASs), according to a 2007 UNCTAD report, the TASs are not legally binding and are not generally applied by Turkish companies.

However, a review of the publications on the subject suggests, the proposed amendments to the Commercial Code will bring financial reporting requirements in Turkey closer to the international standards on corporate financial reporting. According to a 2007 World Bank report on accounting, the new Code will require all companies other than Small and Medium-size Enterprises (SMEs) to follow TASs, while the SMEs will have an option to follow TASs or a simplified set of accounting standards set by the TASB. According to the April 2008 Letter of Intent to the IMF, the Turkish government is planning to adopt the new Commercial Code in 2008. However, as of November 2008, adoption of the Code was still pending.

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Turkey – Investment Incentives in Turkey

Turkey has been restructuring its economy since 1980 along the lines of a more liberal economic policy. In this context more emphasis is being placed on private sector investments. State encouragements to investments are the main way of increasing production and employment. The state aids requiring investment incentive certificate is discussed in this article.

The investment incentive certificate is a document which is granted to investors for their investments by the under secretariat of Treasury and which provides for the utilization of the benefits. Before starting the expenditures, investors willing to have incentives must make an application to the Treasury for obtaining a certificate.

The state aid is available through an investment incentive certificate are classified into three categories which are;

- a) General investment incentives,
- b) Region and sector-based incentives,
- c) Incentives for large-scale investments.

General investment incentives

Except for the investments, which are deemed, not to be supported and do not meet the required conditions, all investments over minimum fixed investment amount may benefit from customs duty and value added tax (VAT) exemption regardless of the location of the investment.

There is presently a minimum TL 1 million investment requirement for the investments in the regions I and II and TL 500 thousand for the investments in the regions III and IV.

Before making the application for an investment incentive certificate, investors should check the list of not supported

investments from the table attached to the Council of Ministers Decree.

Incentives available for region-based and large scale investments

Some fields of investments in certain regions and some large-scale investments have been granted with additional supports. The scope of the additional supports becomes different from region to region. Turkey has been divided into four regions with respect to regional implementation.

In addition to the customs duty and VAT exemptions, the state encouragements available for the investments in the scope of regional implementation and large scale are following.

- Reduced corporate tax rate,
- Social security premium contribution for employers' share,
- Interest support for the loans received from the banks,
- Land allocation.

Reduced corporate tax rate

Regional and large-scale investments can be qualified in benefiting from the reduced corporate tax rate. The investment contribution rates and reduced corporate tax rates are differed from region to region as shown in the table below.

Investments Started by 31 December 2010					
Zones	Regional Investments			Large Scale Investments	
	Investment Contribution Rate (%)	Rate	Applicable Corporate Tax Rate* (%)	Investment Contribution Rate (%)	Applicable Corporate Tax Rate* (%)
I	20 (10)		10 (15)	30 (25)	10 (15)
II	30 (15)		8 (12)	40 (30)	8 (12)
III	40 (20)		4 (8)	50 (40)	4 (8)
IV	60 (25)		2 (4)	70 (45)	2 (4)

(*) The regular corporate tax rate is 20%.

The figures written in parenthesis refer to the rates applicable to the investments started after December 31st 2010.

The benefit is tax saving amount, which is the difference between tax expense at regular rate and the amount at reduced rate. The reduced tax implementation is ceased when the tax saving amount reaches to the investment contribution amount.

Social security premium support

Another support to investments with an incentive certificate is the compensation of social security premium employers' share. The premium support is only available to large scale and region-based investments. The amount to be compensated by Treasury is the premium employers' share corresponding to minimum wage. The period within the compensation will be applied differs for each region where the investment located and by the commencement date of the investment.

Interest support

Investments to be realized within the scope regional implementation in the regions III and IV can be supported with borrowing cost compensation.

For the investments to be realized in the Region III, the points of interest rate to be compensated are 3% points for the loans in Turkish Lira and 1% point for the foreign currency loans. Those points for the investments to be realized in the Region IV are 5% and 2% respectively.

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