



## **NEW TAX REGIME**

### **Last Review**

October 10th 2008

## **TAX STATUS OF NEW COMPANIES LICENSED UNDER THE IBC NEW TAX REGIME IN FORCE UP TO 2020**

New Companies licensed to operate under the legal ambit of the IBC are exempt from:

- the obligation to withhold tax on royalty, interest and service payments;
- stamp/capital duty on company capitalisation;
- municipal transaction tax (IMT) and municipal property tax (IMI);
- notary public and registrar fees.

These companies are subject to corporate tax income tax (IRC) at the following progressive rates:

2007 - 2009: 3%;  
2010 - 2012: 4%;  
2013 - 2020: 5%.

Non residents shareholders that invest in the capital of a company of the IBC are exempt from:

- withholding tax on dividend and interest payments;
- capital gains tax resulting from the sale of equity interests in the company;
- tax on income from company liquidation proceedings

Please note that these new companies have to comply with certain flexible substance requirements:

- a) the company must have at least one employee or director (resident or non resident in Portugal) contributing to the Portuguese social security scheme. Considering the amounts presently in force, this means a minimum payment of Eur 1,629 per year per employee.
- b) If the company has less than 6 employees (or directors) the company should undertake a minimum investment of Eur 75,000 in the acquisition of tangible or intangible fixed assets (not necessarily located in Madeira) during the first two years of activity. Please note that a participation higher than Eur 75,000 in a foreign company is sufficient to comply with this requirement.

Please also note that the tax benefits attributed are limited to the following thresholds, depending on the number of employees or directors contributing to social security.

- i) Eur 2 million net profit - 1 to 2 employees
- ii) Eur 2,6 million net profit - 3 to 5 employees;
- iii) Eur 16 million net profit - 6 to 30 employees;
- iv) Eur 26 million net profit - 31 to 50 employees;

- v) Eur 40 million net profit - 51 to 100 employees
- vi) Eur 150 million net profit - more than 100 employees;

If the taxable basis (net profit) is higher than the amounts above referred the excess will be subject to 20% tax.

Now let me give you the specifics about Madeira Holding companies:

Generally speaking, dividends received by a Madeira company are subject to the 3% to 5% corporate income tax, but our general tax law foresees a 100% participation exemption (i.e. no taxation) if the following requirements are met:

- a) the company distributing the dividends is resident in a EU country and comply with the requirements of the EU parent subsidiary directive.
- b) the participation is higher than 10% of the capital or the acquisition price was higher than Eur 20 million.
- c) the participation is held for at least one year

If only the requisite a) is met (and not b) and c)), then only 50% of the dividend received will be taxed.

Please note that we have 2 types of holding companies in Portugal:

- a) Pure holding companies or SGPS: the activity of this type of companies is limited to holding participations in other companies and to provide intra group services.
- b) Mixed holding companies: this type of company has a broad object, including the possibility to hold participations in other companies.

In terms of taxes, the difference between SGPS and mixed holding companies are:

- 1) SGPS are only subject to the Madeira regime on income received from subsidiaries from outside the EU. So, dividends received from the EU, if not subject to the participation exemption above referred to, will be subject to 20% corporate income tax (or 10% if the 50% participation exemption is applicable). All other type of income (services, or interests) received from EU subsidiaries will be subject to 20% corporate income tax.
- 2) the advantage of the SGPS is that this type of income is neither subject to the substance requirements above referred to nor to the thresholds. Plus capital gains on the sale of the subsidiaries may be exempt if the participation was held for a period higher than one year (3 years in case of tax havens or if the participation was purchased from a related party).
- 3) mixed holding companies are subject to the Madeira tax regime on all type of income derived from operations outside Portugal, independently of the nature of the income or if it is coming from outside or inside the EU. Nevertheless, the participation exemption is also applicable if the requirements are met.

So, on the end, if correctly structured, dividends received from the EU shall not be subject to taxes in Madeira or, in case the participation exemption is not applicable, to 3% corporate income tax.