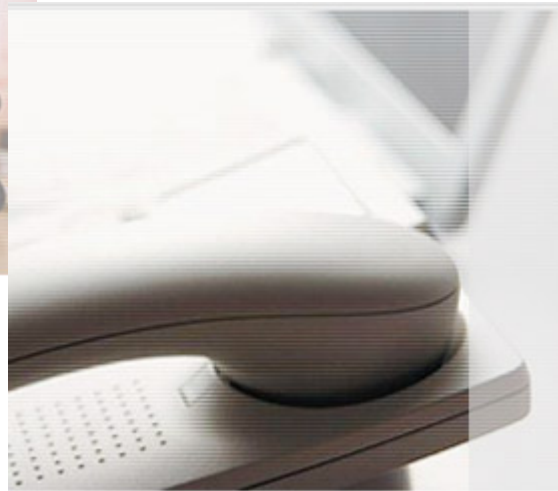
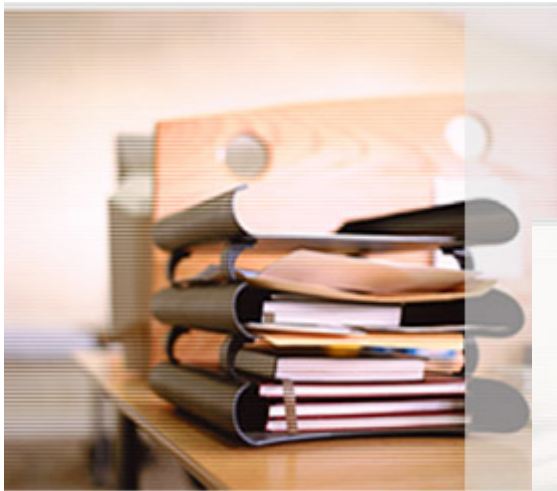




◆ Spanish Holding Company ◆ 2006



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Spanish Holding Company



Spanish Law 43/1995 introduced a special tax regime applicable to Spanish holding companies creating one of the most competitive holding regimes in the world. The stability that this special regime has experimented over these last years makes it a very reliable vehicle of investment. This fact is even enforced by the wide range of treaties that Spain has undersigned in the last years. There are several interesting features about the Spanish holding company (called in Spanish "Entidad de Tenencia de Valores Extranjeros" - ETVE -) which may be summarised as follows.

Taxation of inbound dividends and capital gains

Dividends and capital gains will be tax exempt in the Spanish ETVE, if the following conditions are met:

a) Residence and taxation of the subsidiaries.

The subsidiaries must not be resident in a tax haven jurisdiction (black list at the end of this note). In addition, the foreign subsidiary must have been subject to tax of identical or analogous nature than the Spanish Corporate Income Tax. If the subsidiary is resident of a country which has signed a Double Tax Treaty with Spain which includes an exchange of information provision, this requirement will be deemed to be fulfilled.

It should be noted, that in the last years the Tax Authorities have been more flexible when considering this requirement, since it is understood that companies resident in jurisdictions with a territorial tax system (as Uruguay, Costa Rica, etc.) comply with this condition.

b) Activity of the subsidiaries.

Dividends obtained from the foreign subsidiary must derive from active business activities. This requirement will be deemed to be fulfilled if at least 85% of the income derives from business activities abroad or from participations that also accomplish the requirements for the participation exemption. In this sense, income derived from the exploitation of certain intangible assets, such as patents, copyrights, trademarks, as well as management of commercial or scientific experiences, technical assistance, will qualify for the participation exemption.



c) Shareholding and holding period.

A participation of at least a 5% in the foreign subsidiary is required, or alternatively, an acquisition value higher than 6 million euros. A non-interrupted holding period of at least 12 months is also required, or alternatively, commitment of accomplishing the holding period after the distribution of dividends.

Taxation of outbound dividends and transfer of the ETVE shares

Dividends and capital gains derived from the ETVE shares with regard to the exempt income described above shall not be subject to tax in Spain provided the recipient is a non-resident individual or entity who is not resident in a tax haven jurisdiction. The same tax treatment applies when the ETVE company is liquidated.

Other issues

Payments of interests and thin capitalisation rules

Interests paid by the ETVE company will not be subject to withholding tax in Spain provided that the individual or entity receiving the interest is an EU resident that does not have a permanent establishment in Spain. Interests paid will be fully tax deductible in the ETVE company.

Regarding thin capitalisation rules, it applies a ratio financing/equity of 3:1. However, from 1st January 2003, this provision is not applicable on loans granted by companies resident in an EU member State.

Goodwill depreciation

Spanish Corporate Income Tax law has stated the possibility of depreciation of goodwill derived from the acquisition of foreign entities, as long as the same requirements for the participation exemption are met, with an annual limit of a 5%.

Deferral of taxes on the acquisition of participation in foreign subsidiaries

Under certain conditions it is possible to obtain a four year tax deferral, up to 30 million euros per year, for the acquisition of majority interests in non EU resident companies.



Spanish Holding Company

Treatment of Dividends	Exempt
Minimum holding or dividends	5% (i)
Treatment of capital gains	Exempt
Minimum holding for capital gains	5% (i)
Minimum ownership period	1 year
Must subsidiary be active	Yes
Must subsidiary be subject to tax	Yes
Corporate Tax rate	35%
Withholding tax on dividends	0
Withholding tax on liquidation	0
Interest deduction	Yes
Debt/equity ratio	3:1 (ii)
CFC rules	Yes (ii)
Other taxes: capital duty	0% or 1%

(i) If the acquisition cost of the interest exceeds 6 million euros, this requirement shall be deemed to be fulfilled.

(ii) Non applicable to EU companies.

Tax Havens

Africa

Liberia
Mauritius
Seychelles

Asia

Bahrain
Brunei
Cyprus*
Hong-Kong
Jordan
Lebanon
Macao
Oman
Singapore
United Arab Emirates

America

Anguilla
Antigua and Barbuda
Aruba
Bahamas
Barbados
Bermuda
British Virgin Islands
Cayman Islands
Dominican Republic
Falkland Islands
Granada
Jamaica
Montserrat
Netherlands Antilles
Panama
Saint Lucia
Saint Vincent and
Grenadines
Trinidad and Tobago
Turks and Caicos Islands
United States Virgin Islands

Europe

Andorra
British Channel Islands
Gibraltar
Isle of Man
Liechtenstein
Luxembourg**
Malta*
Monaco
San Marino

Oceania

Cook Islands
Fiji Islands
Marian Islands
Nauru
Solomon Islands
Vanuatu Republic



* From their incorporation to the EU, they should not be deemed as tax havens since there is the possibility to exchange information with the tax authorities of both countries

** For the income obtained by holding companies defined in the special Luxembourg legislation, contained in law 1929.

Double Tax Treaties signed by Spain

Argentina	Germany	Morocco
Armenia	Greece	Philippines
Austria	Hungary	Poland
Azerbaijan	India	Portugal
Belgium	Indonesia	Rumania
Bolivia	Ireland	Russia
Brazil	Island	Slovakia
Bulgaria	Israel	Slovenia
Canada	Italy	South Korea
Chile	Japan	Sweden
China	Kazakhstan	Switzerland
Cuba	Latvia	Thailand
Czech Republic	Lithuania	Tunisia
Denmark	Luxembourg	Turkey
Ecuador	Macedonia	United Kingdom
Estonia	Netherlands	United States
Finland	Norway	Venezuela
France	Mexico	Vietnam

Braxton Services

- ◆ Tax and legal advice on domestic and international transactions.
- ◆ International tax and legal advice for non-resident companies on establishing business in Spain, holding companies, transfer pricing issues, etc.
- ◆ Tax and legal advice on artists, sportsman and expatriates.
- ◆ Incorporation and management of Spanish companies, as the holding company (ETVE) or permanent establishments.
- ◆ Incorporation and management of companies in foreign jurisdictions.