The ITPS Group

INTERNATIONAL TAX PLANNING AND STRUCTURE SERVICES

CONTENTS

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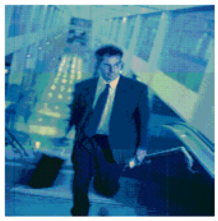

The International Tax Planning Newsletter is a quarterly newsletter of Broers & MacDonald tax lawyers and The ITPS Group, an independent provider of international tax planning and structure services. It provides these services in the Netherlands, Curacao, Aruba, Belize, Belgium, the British Virgin Islands, Luxembourg, Cyprus, Malta and Hong Kong.

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BELGIAN REPORTING OBLIGATIONS FOR PAYMENTS TO TAX HAVENS

On 8 December 2010 the Belgian tax authorities published the long-awaited Circular Letter dated 30 November 2010 (Circular AFZ 13/2010, Ci. RH.421/607/890) which clarifies the scope of the Program Law of 23 December 2009 that introduced reporting obligations for payments to tax havens.

Circular letter dated 30 November 2010

The Circular brings some clarifications of a number of uncertainties in the Program Law. As it appears, the Belgian tax authorities interpret this law broadly, resulting in heavy operational charges for a number of companies, notably those with an international footprint. Now that the position of the tax authorities is clear, taxpayers should assess the applicability of the new rules and review and maybe reconsider any (future) direct and indirect payments made to targeted tax havens.

It should be noted that failure to comply with these reporting requirements could have material adverse consequences, i.e. not only the disallowance of a deduction for the payments but also administrative sanctions, such as tax increases and fines, which may be substantial if there is any suspicion of tax fraud by using a tax haven.

Reporting obligations for payments to tax havens introduced with effect from January 1, 2010

In accordance with the aforementioned Program Law, as from 1 January 2010, Belgian companies and permanent establishments in Belgium of foreign companies are obliged under article 307 of the Income Tax Code 1992 ("ITC"), as amended, to report aggregated direct and indirect payments to tax havens in excess of EUR 100,000 during the taxable period.

Moreover, these payments may in principal only be deducted as business expenses if the taxpayer proves that the expenses relate to actual and genuine transactions and not artificial arrangements.

Definition of a tax haven

The amended article defines a tax haven as:

- A country which, during the entire taxable period in which the payment was made, was considered by the OECD Global Forum on Transparency and Exchange of Information as not having substantially and effectively implemented the OECD exchange of information standard; or
- A country included in a royal decree that lists countries which do not impose a corporate income tax or which have a nominal corporate income tax rate of less than 10%. For 2010 and 2011, this is the Royal Decree of May 6, 2010. The relevant list is the one in force on 1 January of the relevant assessment year.

OECD exchange of information standard

Which country is considered as not having substantially and effectively implemented the OECD exchange of information standard is still to be determined by the OECD Global Forum on Transparency and Exchange of Information after the three-year Peer Review process (see related article about the OECD Global Forum).

Note that the Circular Letter confirms that the OECD Progress Report should not be taken into account.

The Belgium blacklist of tax havens

The Belgian Royal Decree of May 6, 2010, published in the May 12, 2010 issue of the Official Gazette Moniteur Belge with retroactive effect from January 1, 2010, provides a list of the following 30 jurisdictions that are deemed tax havens:

Andorra, Anguilla, Bahamas, Bahrain, Bermuda, British Virgin Islands, Cayman Islands, Guernsey, Jersey, Jethou (one of the Channel Islands, part of Guernsey), Maldives, Isle of Man, Federated States of Micronesia, Moldova, Monaco, Montenegro, Nauru, Palau, St. Bartholomew, Sark (one of the Channel Islands), Turks and Caicos, United Arab Emirates (Abu Dhabi, Ajman, Dubai, Fujairah, Ras Al Khaimah, Sharjah and Umm al Qaiwain), Vanuatu, and Wallis and Futuna.

This kind blacklist will be updated every two years.

Reporting requirements

The reporting obligation under article 307 ITC applies to all payments made, directly or indirectly, to persons established in tax havens, despite the fact that companies active in specific sectors may be subject to a tax of at least ten percent under the common law regime in some of the jurisdictions on the list.

The Circular specifies that the reporting obligation is applicable to companies subject to Belgian corporate tax as well as to Belgian branches of foreign companies. The reporting obligation is also applicable to foreign branches of Belgian companies.

The reporting must be done on a separate form 275 F attached to the corporate tax return. Several payments to the same beneficiary must be reported separately. The date of the effective payment is decisive for the year wherein it should be reported. The date is also decisive for determining the exchange rate for foreign currency payments.

Payment

The Circular Letter states that the reporting obligation applies when the taxpayer knows or should reasonably know that he has made a payment to a person →

established in a targeted tax haven. Such knowledge can not reasonably be expected in case of interest payments made within a clearing system or by an issuer in respect of publicly traded bonds.

The concept of "payment" is interpreted broadly. It includes:

- Payments in cash, via bank transfer and payments in kind.
- All payments made by a taxpayer, whether made in the taxpayer's own name and for its own account or in the name and/or for the account of a third party.
- Payments that represent an expense, such as commissions, interest, rent or royalties, but also payments for the purchase of assets, the reimbursement of share capital and the repayment of the principal of a loan.

Person

In Circular Letter confirms that the term person includes physical persons, legal persons, and any other association of persons whether or not subject to tax. In relation to trusts, the reporting obligation is focused on payments to the settlors, trustees, protectors and beneficiaries of the trust.

The reporting requirement applies when the person has an address or a bank account in a targeted jurisdiction, unless it can be demonstrated that the recipient is tax resident in another country. It also applies when the payment is made to a branch located in a non-targeted jurisdiction but the head office of the branch is located in a targeted jurisdiction.

Direct or indirect payments

The Circular Letter provides little clarification of the term "indirect payments". It merely indicates that a payment should be reported when the taxpayer knows or should have known that the payment is received by the legal beneficiary as an intermediary, whether or not in his own name, and that the actual beneficiary is established in a targeted tax haven. With respect to payments between affiliated companies, it can be expected that the ultimate beneficiary of the transaction is known.

Deductibility requirements

In case a payment is not reported despite the obligation of article 307 ITC, the payments will be disallowed for corporate income tax purposes.

Where the payments have been duly reported in time, their tax deductibility will be subject to the ability of the taxpayer to prove that:

- said payments were made as part of genuine and bona fide transactions <u>and</u>
- they were not made to a person under an artificial construction.

To demonstrate the actual and genuine nature of a transaction, the taxpayer must demonstrate that the payment meets an "industrial, commercial or financial need" that is duly compensated in accordance with the arm's length standard in accordance with article 54 ITC.

An artificial construction has no link with economic reality (development of a real activity) and is meant to evade tax due in Belgium. A payment to a person is not considered to be an artificial construction if the person has developed an actual economic activity in the country where it is established. This implies a physical existence of that person in terms of office space, personnel and equipment (the circular refers to the European Court of Justice decisions in the Cadbury-Schweppes and Eurofood IFSC cases).

Despite the introduction of these new rules, the payment must still be at arm's length in accordance with article 26 ITC and must meet the general deductibility conditions of articles 49 and 54 ITC.

For payments, such as service fees, that also fall within the scope of the secret commissions tax, the reporting obligations of both provisions must be met simultaneously. However, when the secret commission tax is applied, the pertinent payments are tax deductible even if the specific deductibility requirements for payments to tax havens are not met.

Non-deductibility and double tax treaties/ TIEA's

The circular also stipulates that the reporting obligation and deductibility requirements may be affected by the non-discrimination provisions in a tax treaty or the EU principles on the free movement of capital and payments.

Non-deductibility as a consequence of not reporting would not apply to payments to persons resident in a targeted tax haven which has a double tax treaty with Belgium, such as with the United Arab Emirates. Still, the Circular stresses, the payment should be reported.

The same applies to targeted tax havens which have concluded an exchange of information treaty (TIEA's) with Belgium, such as Andorra, Bahamas, Bahrain, Isle of Man, Moldova, Monaco and the United Arab Emirates) under article 63 of the EU treaty.

Review transactions and take corrective action

The circular letter of the tax administration gives a broad interpretation to the reporting obligation for payments to tax havens. It should be noted that failure to comply with these reporting requirements could have material adverse consequences,

Corporate taxpayers in Belgium should review their transactions with targeted tax havens and take corrective action if necessary, whilst realizing that a reported payment to a targeted tax haven would be deductible in case it is at arm's length and not designed to be to directly or indirectly escape taxes normally due on taxable profits in Belgium. ■

OECD GLOBAL FORUM - PROGRESS REPORT ON OECD WORK ON TAX HAVENS

Since the April 2009 G20 London Summit, more than 300 tax agreements have been signed to meet OECD standard on tax transparency and effective exchange of information.

OECD standard on tax transparency and effective exchange of information

The internationally agreed tax standard, which was developed by the OECD in co-operation with non-OECD countries and which was endorsed by G20 Finance Ministers at their Berlin Meeting in 2004 and by the UN Committee of Experts on International Cooperation in Tax Matters at its October 2008 Meeting, requires exchange of information on request in all tax matters for the administration and enforcement of domestic tax law without regard to a domestic tax interest requirement or bank secrecy for tax purposes. It also provides for extensive safeguards to protect the confidentiality of the information exchanged.

OECD list/ Progress Report of 16 March 2011

The so called OECD list, issued by the OECD Secretary General in conjunction with the G20's London Summit in April 2009, is a progress report on the implementation of the internationally agreed tax standard that identifies:

1. Jurisdictions that have substantially implemented the standard (i.e. jurisdictions which have signed 12 or more agreements to the standard)
2. Other jurisdictions that have committed to but not yet implemented the standard and tax havens that have committed to but not yet implemented the standard (i.e. which have signed fewer than 12 agreements to the standard) and
3. Jurisdictions that have not even committed to the standard.

Since April 2009, the Progress Report has been updated and still is. The last issue of 16 March 2011, annexed to the Background Information Brief of 9 March OECD Global Forum on Transparency and Exchange of Information for Tax Purposes shows that there are no longer any jurisdictions in the third category while 34 jurisdictions have moved from the second to the first category.

Presently, the second category consists of the tax havens Montserrat, Nauru, Niue, Panama, Vanuatu and the other financial centres Costa Rica, Guatemala and Uruguay.

From commitments and agreements to achieving an effective implementation of the standard

When all jurisdictions have moved to the first category the Progress Report will clearly be superseded by the outcomes of the peer review process which are much more in-depth than just counting agreements.

Accordingly, the focus of the OECD Global Forum on Transparency and Exchange of Information is now shifting, from commitments and agreements to achieving an effective implementation of the standard.

OECD Global Forum on Transparency and Exchange of Information for Tax Purposes

The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 90 jurisdictions which participate in the work of the Global Forum on an equal footing.

The OECD Global Forum has a three year mandate to ensure the rapid implementation of tax transparency standards by conducting an in-depth monitoring and a "two-phase peer reviews" of all its member countries and of other jurisdictions where a review is considered to be required (such as Botswana and Trinidad and Tobago), i.e. assessment of the legislative and regulatory framework in phase 1 and assessment of the effective implementation in practice in phase 2.

Assessment of the extent to which a country has implemented the required tax transparency standard would take into account the number of tax information agreements entered into by that country, considering the content of the agreements and their effectiveness in achieving the exchange of information on tax matters.

Where a jurisdiction is found to have too many elements not in place during the phase 1 review, the report will indicate that the jurisdiction cannot move to a phase 2 review. Indeed, it is not necessary to check whether information is exchange in practice where the legal and regulatory framework is not in place. The jurisdiction will have to take action and fix the deficiencies so that it can report progress to the Global Forum for its report to be re-examined.

Eighteen reports

On 30 September 2010, the Global Forum adopted the first 8 reports resulting from phase 1 evaluations in Bermuda, Botswana, Cayman Islands, India, Jamaica, Monaco, Panama and Qatar. →

Another 10 followed in March 2011, resulting from phase 1 evaluations in Barbados, Guernsey, the Seychelles, San Marino and Trinidad and Tobago and fort the first time combined reviews in Australia, Denmark, Ireland, Mauritius and Norway. The combined reviews assessed both the legal and regulatory framework and the practical implementation of the standard.

The reports adopted so far by the Global Forum have identified a number of deficiencies regarding the implementation of the standards and have made recommendations for improvement.

By the end of 2011, reviews will have been completed or be well underway for 80 of the Global Forum's members. Most of these reviews will be phase 1 reviews of the legal and regulatory framework, and some will be combined phase 1 and 2 reviews.

Neither the Global Forum nor the OECD has the power to impose sanctions

Neither the Global Forum nor the OECD has the power to impose sanctions on countries that do not implement the standards. The G20 has produced a list of potential measures based upon an analysis provided by the OECD.

Nevertheless, individual countries whether OECD or not will decide for themselves what actions they consider necessary to ensure the effective enforcement of their tax laws. As an example, please see the article in this newsletter, wherein it is mentioned that Belgium has introduced reporting obligations for payments to those jurisdictions which "are considered by the OECD Global Forum on Transparency and Exchange of Information as not having substantially and effectively implemented the OECD exchange of information standard". ■

SPAIN ENACTS CAPITAL DUTY EXEMPTION FOR CERTAIN CORPORATE TRANSACTIONS

On 3 December 2010, the Royal Decree-Law 13/2010 regarding measures to promote business activity, investment and employment was enacted and published in the Official Gazette (*Boletín Oficial del Estado no. 293*). Because of its urgency, the measures are designed to boost inward investment into Spain as well investment through Spain into other countries, the law was effective the same day.

Significant change to Spanish capital duty legislation

The main tax change introduced by the law is the exemption of the transfer tax and stamp duty (*Impuesto sobre Transmisiones Patrimoniales y Actos Jurídicos Documentados*) for certain corporate transactions aimed at creating, capitalising and maintaining companies.

The exemption aims to remove the economic obstacles in such transactions and to bring the legislation in line with other European jurisdictions, such as Luxembourg and Cyprus, where this indirect tax had already been eliminated.

As we informed you in our newsletter of November 2007, already on 4 December 2006 the European Commission proposed a phasing out of capital duty by 2010. Capital duty is an indirect tax levied on contributions of capital for capital companies and restructuring operations involving capital companies. Given its detrimental economic effects, it is an obstacle to economic growth and therefore the European Commission proposed to abolish capital duty and to reinforce the prohibition on creating or levying other similar taxes.

Previous legislation

Until 3 December 2010 cash contributions to the equity of Spanish companies upon the incorporation, capital increase and related contributions made by the shareholder(/s), were subject to a 1% capital duty. This was also the case for the transfer of foreign entities' corporate domicile or effective place of management from a non-EU territory to Spain.

Exemption of the 1% capital duty for certain corporate transactions

The new measure provides for an exemption from capital duty to all these transactions, i.e. regarding:

Incorporation of companies.
Share capital increase of companies.

- Contributions made by shareholders that do not involve a share capital increase.
- Transfer to Spain of the effective management or the registered address of a company when neither of these had previously been located in a European Union Member State.

The capital duty will remain in force for the reduction of share capital and the dissolution of companies. In these cases the company's shareholders are the tax payers.

Measure removes obstacles for investment in and through Spain

It goes without saying that this measure is very important as it removes obstacles for investment in and through Spain. Not only does it remove a significant cost capitalising a company in Spain. It also gives more flexibility in financing Spanish companies with capital or loans.

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As an example, this change has removed the obstacle to finance a Spanish company by way of a profit sharing loan from its parent company in the Netherlands, whereby, subject to certain conditions, the interest may be deductible in Spain, whereas exempt under the participation exemption in the Netherlands.

The exemption clearly facilitates investments into or through Spain, as well as certain financing/ refinancing scenarios and it may boost inward investment into Spain as well investment through Spain into other countries. ■

TAX TREATY DEVELOPMENTS

Below are mentioned a number of tax treaties for the avoidance of double taxation as well as protocols to these treaties that have become effective recently or will become so shortly. The applicable maximum withholding tax rates under these tax treaties are mentioned.

Moreover, the tax treaties that have been terminated recently are mentioned.

The list does not mean to be exhaustive.

Kindly, also check the notes below. Moreover, always check the wording of the pertinent tax treaty and protocol, if any, as there may be special conditions, including but not limited to ultimate beneficial ownership requirements, for the pertinent rate to be applicable.

Tax treaties between	*Signed*	*Entered into force on*	*Will become effective/ became effective on*	*Maximum rates of withholding tax*				
				Dividends			*Interest*	*Royalties*
				General (portfolio)	*Minimum % for special rate*	*Special rate (participation dividends)*		
Austria - Bahrain	2 Jul 09	1 Feb 11	1 Jan 11	0			0	0
Austria - Serbia	7 May 10	17 Dec 10	1 Jan 11	15	25	5	10	5
Bulgaria - Qatar	22 Mar 10	23 Dec 10	1 Jan 11	0			3	5
Estonia - Albania	5 Apr 10	25 Nov 10	1 Jan 11	10	10	5 *1)	5	5
France - Malaysia (Protocol)		1 Dec 10	1 Jan 10	n/a			n/a	n/a
Germany - Bulgaria *2)	25 Jan 10	21 Dec 10	1 Jan 11	15	10	5	5	5
Germany - Macedonia *3)	13 Jul 06	29 Nov 10	1 Jan 11	15	10	5	5	
Germany - Malaysia *4)	23 Feb 10	21 Dec 10	1 Jan 11 (DE)/ 1 Jan 11 (MY)	15	10	5	10	7
Germany - Syria	17 Feb 10	30 Dec 10	1 Jan 11	10	10	5	10	12
Germany - United Kingdom *5)	30 Mar 10	30 Dec 10	1 Jan 11 (DE)/ 1 Jan 10/ 1/6 April 11 (GB)	15	10	5	0	0
Hong Kong - Austria	25 May 10	1 Jan 11	1 Apr 12 (HK)/ 1 Jan 12 (AT)	10	10	0	0	3
Hong Kong - Brunei	20 Mar 10	18 Dec 10	1 Apr 11 (HK)/ 1 Jan 11 (BN)	0			10/5 *6)	5 *7)
Hong Kong - Hungary	12 May 10	23 Feb 11	1 Jan 12 (HU)/ 1 Apr 12 (HK)	10	10	5	5	5
Hong Kong - Ireland	22 Jun 10	10 Feb 11	1 Jan 12 (HK)/ 1 Apr 12 (IE)	0			10/0	3
Hong Kong - United Kingdom *8)	21 Jun 10	20 Dec 10	1 Apr 11 (HK)/ 1/6 Apr 11 (UK)	0 *9)			0 *10)	3
Korea - Kuwait (Protocol)		27 Dec 10	1 Jan 11					5

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Tax treaties between	*Signed*	*Entered into force on*	*Will become effective/ became effective on*	*Maximum rates of withholding tax*				
				Dividends			*Interest*	*Royalties*
				General (portfolio)	*Minimum % for special rate*	*Special rate (participation dividends)*		
Luxembourg - Bahrain	6 May 09	10 Nov 10	1 Jan 11	10	10	0	0	0
Luxembourg - France (Protocol)	3 Jun 09	29 Oct 10	1 Jan 10	n/a			n/a	n/a
Luxembourg - Iceland (Protocol)	28 Aug 09	28 Apr 10	1 Jan 11	n/a			n/a	n/a
Luxembourg - Liechtenstein	26 Aug 09	17 Dec 10	1 Jan 11	15	10	5/ 0 *11)	0	0
Luxembourg - Switzerland (Protocol)	25 Aug 09	19 Nov 10	1 Jan 11	15/ 5 *12)	10 *13)	0		
Malaysia - San Marino	19 Nov 09	28 Dec 10	1 Jan 10/ 11 (MY)/ 1 Jan 11 (SM)	10	10	5	10	10
Malta - Jordan	16 Apr 09	13 Oct 10	1 Jan 11	10 *14)			10	10
Mexico - Panama	23 Feb 10	30 Dec 10	1 Jan 11	7.5	25	5	10 *15)	10
Mexico - Uruguay	14 Aug 09	29 Dec 10	1 Jan 11	5			10	10
Russia - Cuba	14 Dec 10	15 Nov 10	1 Jan 11	15	25	5	10	5
Singapore - Libya	8 Apr 09	23 Dec 10	1 Jan 11	10	10	5 *16)	5	5
Singapore - Slovenia	8 Jan 10	25 Nov 10	1 Jan 11	5			5	*17)
Spain - Costa Rica *18)	4 Mar 04	15 Dec 10	1 Jan 11	12	20	5	10/5/0 *19)	10
Spain - Uruguay *20)	9 Oct 09	24 Apr 11	1 Jan 12	5	75	0	10	10/5 *21)
Switzerland - Finland (Protocol)	22 Sept 09	22 Dec 10	1 Jan 11	10	10	0		
Switzerland - Norway (Protocol)	31 Aug 09	22 Dec 10	1 Jan 11	15	10	0		
Switzerland - United Kingdom (Protocol)	7 Sept 09	15 Dec 10	1 Jan 11				5	
The Netherlands - United Kingdom *22)	26 Sept 08	25 Dec 10	1 Jan 11 (NL) 1/6 Apr 11 (UK)	10/15 *23)	10	0	0	0

Tax treaties between	*Signed*	*Terminated*	*Ceases to apply on*
Germany – Turkey *24)	1985	1 Feb 11	1 Jan 11

Notes

*1) If beneficial owner is a company.

*2) As a consequence, the treaty between Germany and Bulgaria signed on 2 June 1987 expired and ceased to have effect.

*3) As a consequence, the treaty between Germany and Macedonia signed on 26 March 1987 expired and ceased to have effect.

*4) As a consequence, the treaty between Germany and Malaysia signed on 8 April 1977 expired and ceased to have effect. →

Notes

*5) From these dates, the new treaty generally replaces the Germany - UK income and capital tax treaty of 26 November 1964, as amended by the 1970 protocol.
An anti-abuse provision has been included under which the reduced withholding tax rates on dividends, interest and royalties do not apply if the main or one of the main purposes was to take advantage of the treaty.

*6) 5% if received by a bank or financial institution.

*7) The maximum rate of withholding tax on service fees (technical, managerial and consultancy) is 15%.

*8) The protocol specifically provides that there will be no automatic or spontaneous exchange of information.

*9) 15% on dividends paid out of the United Kingdom by real estate investment trusts.

*10) 0% on interest, except where the anti-treaty shopping provisions in the treaty apply.

*11) 0% if the receiving company for an uninterrupted period of at least 12 months owns directly at least 10% of the capital of the company paying the dividends or a participation of at least EUR 1.2 million.

*12) 5% where the dividends are paid to a company that holds directly at least 10% of the capital of the payer company.

*13) Dividends paid to a company (other than a partnership) that holds at least 10% of the capital of the payer company for an uninterrupted period of two years preceding the date the dividends are paid.

*14) 10% on dividends paid by a company resident of Jordan to a beneficial owner resident in Malta. For dividends paid by a company resident in Malta to a beneficial owner the rate is 0% if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the company paying the dividends and such holding is being possessed for an uninterrupted period of no less than 1 year; the other contracting state, the central bank of that other state, or any national agency or any other agency (including a financial institution) owned or controlled by the government of that other state; or a pension fund or other similar institution providing pension schemes in which individuals may participate in order to secure retirement benefits, where such pension fund or other similar institution is established, recognized for tax purposes and controlled in accordance with the laws of that other state.

*15) 0% if paid to a bank.

*16) 5% if the beneficial owner is a company which holds directly at least 10% of the capital of the company paying the dividends.

*17) The treaty does not contain a royalties article, so the domestic rate will apply.

*18) The treaty contains a most-favoured nation clause that applies to dividends, interest, royalties and independent personal services originating in Costa Rica.

*19) 10% on interest in general and 5% on interest derived from loans granted for a period of at least 5 years. There are exemptions for interest paid (i) to one of the states or a political subdivision or a local authority of that state, (ii) in respect of the sale on credit of machinery or equipment or (iii) in respect of a loan granted by a bank or a financial institution resident of a state.

*20) Under the protocol, a limitation of benefits clause is introduced according to which the treaty does not apply to determined type of companies or institutions (SAFI and IFE), unless Uruguay is committed to provide information in respect of such companies or institutions. In addition, the treaty does not apply to Uruguayan free zones in respect of financial services. Both states are entitled to apply their domestic anti-abuse provisions and the treaty does not prevent the states from applying their domestic controlled foreign company rules.

*21) 5% on copyright royalties.

*22) Anti-abuse provisions under which the reduced withholding tax rates on dividends, interest, royalties and the provision on other income do not apply if the main or one of the main purposes was to take advantage of the treaty. An anti-abuse provision under which the zero withholding tax rates on interest do not apply to the excess part of interest paid on a debt claim which is based on a special relationship between the payer and the beneficial owner; instead, the domestic rates apply to the excess part.

*23) 15% where the dividends are paid out of income or gains derived directly or indirectly from immovable property by an investment vehicle which distributes most of this income annually and whose income from such immovable property is exempt from tax.

*24) On 7 August 2009 it was announced that Germany has unilaterally terminated the tax treaty. The double tax treaty continued to be in place during calendar year 2010. In 2010 the governments of Germany and Turkey agreed on a new tax treaty which shall set into force retroactively on 1 January 2011. Up to know the double tax treaty has been initialled but not signed yet. ■

BRUSH UP: PERMANENT RESIDENCE IN MALTA

A number of countries have taken measures to attract wealthy taxpayers. As mentioned in the article "The Swiss Federal Council Proposes Changes To Lump-sum Taxation" in this newsletter, for decades Switzerland has been one of the most attractive countries in Europe to migrate to.

A number of countries have taken measures to attract wealthy taxpayers

Other countries include Andorra, Monaco and the United Kingdom. Not all of these countries are tax havens. The best-known example is the United Kingdom, which taxes certain foreigners only with respect to the part of their income transferred to the UK from abroad.

Similar to this UK non-dom scheme is the Malta Permanent Residence Scheme which is designed to attract high net worth individuals to take up permanent resident status in Malta. The scheme is especially attractive to retirees, authors, intellectuals and international consultants or simply persons seeking to establish an alternative residence that suits their lifestyle and tax profile.

This Brush-up elaborates on the requirements for obtaining a permanent residence in Malta, the application procedure, the tax ramifications of the residency as well as the services ITPS (Malta) Ltd may offer.

About Malta

Malta offers an idyllic Mediterranean climate, extremely low levels of taxation, moderate property prices, reasonable living costs, excellent communications and a picturesque and friendly environment. For these reasons Malta continues to attract wealthy foreign nationals to take up residency under the relatively simple procedures available.

Malta is an independent republic, having gained independence from the United Kingdom in 1964, situated in the centre of the Mediterranean Sea about 60 miles south of Italy and 180 miles north of North Africa. Malta is ideally situated with an international airport offering regular direct flights to most major European cities including Rome (1 hour), Paris (2.5 hours) and London (3 hours).

Government is exercised by a democratically elected parliament with elections being held every five years. Population is approximately 400,000. English and Maltese are the official languages but Italian is also widely spoken. English is the business language. Malta is a member of European Union and of the British Commonwealth.

The legal system is based on the Napoleonic code but public, constitutional, fiscal and commercial laws are all based on British Common Law. The official currency is the euro.

Requirements for Obtaining Residency under the Residents Scheme Regulations, 2004

1. Proof of income and/or capital

Applicants must have an annual income of at least € 23,300 or capital of € 350,000. Capital may comprise assets of any description anywhere in the world.

2. Annual remittances to Malta

The law requires a minimum sum to be remitted annually to Malta to cover what the authorities deem necessary for living in the country. This sum varies according to the size of the family unit but is € 14,000 per annum for a sole applicant and a further € 2,329 for every additional person forming part of the family unit.

3. Purchase or lease of property

A resident must either:

- purchase a house valued at not less than € 116,470 or a flat valued at not less than € 70,922 or
- lease a property for not less than € 4,193 per annum.

A new resident must travel to Malta to formally take up resident status within twelve months of the date of issue of the Residency Certificate. Consequently the decision to purchase or lease property may be delayed until the same time. Within fifteen days of taking up residence, the Permit Holder is to notify the tax authorities on a specific form.

4. Professional activity clause

Employment or engagement in business in Malta is only allowed if authorized by the competent authorities by way of an exception.

5. Physical presence requirement

In contrast to other jurisdictions, there is no specific obligation to spend a minimum amount of time in Malta in order to maintain resident status in Malta. Considerations regarding the 'centre of ones vital interests' will however need to be kept in mind.

6. Movement within the Schengen zone

Article 21 of the Schengen II Agreement provides that an alien holding a residence permit issued by one of the Contracting Parties, in this case Malta may, under cover of that permit and of a travel document, both documents still being valid, move freely for up to three months within the Schengen Territories.

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Application Procedure/ Permit/ Approval

A completed application form must be submitted to the competent authorities, together with: -

a) A Police Good Conduct Certificate, obtained from the Police authorities nearest to the resident's current residence. If such certificates are not issued in the applicant's home country then three character references will be required instead - preferably from a banker, lawyer, medical practitioner, accountant or previous/current employer.

b) An Affidavit of no criminal conviction sworn before a notary

c) c) A certificate from a Banker or a Firm of Accountants confirming that the applicant earns the annual income specified and/or has capital of € 350.000. The certificate must also state that the applicant is able to remit to Malta per annum a minimum of € 14,000 plus € 2,329 family member included.
Where applicant is a married couple, a married woman applying only for herself, a divorced woman or a widow, a copy of the marriage certificate is required. In other cases, a birth certificate has to be submitted.

d) Three passport sized photographs of each person included within the application.

The supporting documents, indicated under notes A to D above, attached to an application for residence must be certified original documents attested for correctness by a warranted notary public of the country of nationality. Furthermore, all supporting documents must be legalized by the Ministry of Foreign Affairs of the country of nationality and counter-legalized by an official of the Malta Diplomatic Mission in the country of nationality.

The permit is generally issued within to eight to ten weeks of application. It is issued without limit in time subject to an annual confirmation that the conditions relating to its granting have been honoured.

Procedure following Approval of Application

Upon notification by the authorities of the approval of the application, applicant has to pay the sum of € 4,193 thirty days from the date of such notification. This sum corresponds to the minimum tax due per annum and shall be available as a credit for the year in which the applicant takes up residence in Malta.

A Certificate of Residency is then issued within 30 days of payment and the Certificate holder has a maximum period of twelve months to come to Malta and take up formal residence. Notice of date of arrival has to be given to the authorities on a specific form within 15 days of taking up residence.

Taxation and Other Fiscal Issues

1. Taxation

Holders of Residency Certificates of Malta are taxed on a remittance basis. A flat rate of 15% is imposed on all income remitted to Malta, subject to an annual minimum income tax of € 4,193. Thus, if a person remits the bare minimum of €14,000 referred to in paragraph 2 above, the income tax payable would normally be 15% of €14,000. As this would ordinarily result in a tax bill below the minimum mentioned here, the minimum tax of €4,193 applies nonetheless.

Capital remitted to Malta including capital remitted for the purchase of immovable property is not subject to tax. Income earned outside of Malta and not remitted to Malta is not subject to tax. Malta does not levy estate/ inheritance tax. Additionally, the advantageous range of tax treaties signed by Malta may serve to reduce withholding taxes on investments or pensions held or paid out of the new resident's previous country of residence. All foreign tax withheld by tax treaty partners outside of Malta will be given as credit against local taxes on the same income.

2. Customs duty and VAT exemptions

All used personal and household effects and furniture may be imported into Malta free from Customs Duty and/ or VAT within 6 months of the resident's arrival in Malta. Automobiles do not qualify for this exemption, however the Licensing and registration Act allows for one vehicle to be imported into Malta free of tax under certain conditions.

3. Repatriation of capital and income

Malta retains a limited system of exchange control but new residents are largely exempt from these restrictions. Any unspent income or capital remitted to Malta and any income accumulated thereon during the resident's stay and proceeds from the sale of the resident's dwelling and other investment may be repatriated freely.

ITPS Services

The services ITPS (Malta) Ltd may offer include the following:

1. Prior to Release of Permit

- Meeting clients in Malta and organizing familiarization visits
- Detailed explanation of Permanent Residency Scheme
- Preparation of and handling of all formalities relating to the application
- Acting as agent for the presentation of the application to the Commissioner of Inland Revenue

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2. Upon Issue of Permit

- Attendance at Inland Revenue authorities for registration
- Attendance at bank for opening of accounts
- Introduction to Real Estate Agencies, if required
- Negotiation and Drafting of Lease Agreement
- Assistance with customs formalities on arrival of personal effects
- Assistance with practical 'settling-in' issues such as health insurance, schooling for children, household staffing
- Obtaining Maltese identity card
- Obtaining Maltese driving license

3. During the First Year and Annually Thereafter

- Ensuring that the criteria for retaining Permanent Residency status are complied with
- Acting as tax representative
- Preparation and submission of annual tax return and obtaining tax residency certificates from tax authorities.
- Submission of Annual Declaration to immigration authorities to be signed by resident and certified by a public accountant
- Receipt of mail if required
- Payment of local bills
- Handling of Banking transactions if required. ■

SWISS FEDERAL COUNCIL PROPOSES CHANGES TO LUMP-SUM TAXATION

On 8 September 2010, the Swiss government (i.e. the seven members of the Federal Council who are elected by the United Federal Assembly for a four-year term), announced that, subject to a consultation period that ended on 17 December 2010, it is proposing changes to the Swiss lump-sum taxation regime at the federal and cantonal levels that may result in higher taxes for persons living in Switzerland under this regime.

Purpose of the proposal

The purpose of the proposal is to safeguard the lump-sum taxation which is under political pressure since the Canton of Zurich abolished it at cantonal level on 1 January 2010 after the pertinent proposal was adopted by nearly 53% of the voters in a referendum in February 2009. Besides Zurich, numerous of other cantons have launched other initiatives to abolish lump-sum taxation. Moreover, at the federal level, several parliamentary proposals have been submitted to abolish or modify lump-sum taxation throughout Switzerland. So far, however, all these proposals have been rejected.

One of the accusations that is being made is that lump-sum taxation would encourage tax flight to Switzerland from abroad. The Federal Council rejects this and believes that abolishing lump-sum taxation would not make any significant contribution to preventing national and international tax flight in light of the existing measures to prevent abuses.

In an effort to prevent the abolition of this attractive regime, as the politico-economic implications of such a step would be disastrous for Switzerland, it has submitted a proposal for consultation to the Cantonal tax authorities and business associations that aims to fix a higher minimum taxable amount at federal level and higher ratios for computing the tax burden with the aim to seek a much more favourable public consensus.

Moreover, the Federal Council hopes to generate CHF 255 million (approximately EUR 197 million) per year with these changes, up from CHF 131 million (approximately EUR 101 million) in 2007.

The Council assumes that some of the 5,000 (in 2008) lump-sum taxpayers may choose to depart Switzerland as a result of these changes but that the higher tax revenues will compensate for this shift.

Background of lump-sum taxation regime

For decades Switzerland has been one of the most attractive countries in Europe to migrate to. Not only the scenic nature and political stability but also the favourable tax regulations greatly contribute to its popularity. One of these regulations is the Swiss lump-sum taxation regime (Pauschalreglung in German and Imposition Forfaitaire in French).

In 1920 Vaud became the first canton to introduce separate measures to tax foreigners living, but not working, in Switzerland. Fourteen years later the federal authorities also recognised as a separate tax category people who came to Switzerland for health reasons and not to work.

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Presently, lump-sum taxation is regulated by the Tax Harmonisation Act, brought into force in 2001 to compel cantons to follow the same guidelines when setting individual rates.

The lump-sum taxation regime is currently available at the federal level and, with the exception of the canton of Zurich, in all cantons of Switzerland.

The concept of lump-sum taxation

Under certain conditions, Switzerland allows individuals taking up residence in the country to elect taxation based on lump-sum taxation instead of paying ordinary Swiss income tax.

The basis for the lump-sum taxation is that tax is assessed on the basis of a single lump-sum of income and wealth of an individual which is agreed with the local tax authority regardless of the actual income and wealth of this person. This lump-sum is then submitted to tax at the appropriate rates for the canton and municipally, and also to the single rate federal income tax.

Requirements

The lump sum taxation regime is available to all persons meeting the specified prerequisites, irrespective of the amount of their income. In the case of married couples, these requirements apply to both spouses.

The basic prerequisite for lump-sum taxation is that the persons concerned must not pursue an occupation in Switzerland, i.e. derive income from gainful employment or self-employment in Switzerland. The place of work is decisive in this regard.

Moreover, the person must establish a tax domicile or tax residence in Switzerland, be it for the first time or re-establishing residence in the country following a non-residency period of at least ten years.

A residence permit should be obtained from the immigration police. Since the Agreement on the Free Movement of Persons between Switzerland and the EU took effect on 1st June 2002, residence permits are granted to all EU nationals who do not intend to work in Switzerland. There is moreover no age limit for EU nationals. Non-EU individuals have to be over the age of 55 years, and may take up residence in Switzerland if they have sufficient means to support themselves financially and also have close personal ties with the country.

Foreigners can claim lump-sum taxation for an indefinite period when moving to Switzerland, while it is limited to the first year of residence for Swiss citizens returning from abroad. The right to lump-sum taxation expires when the taxpayer acquires Swiss citizenship, after which the regular income tax must be paid. The same is true if the person takes up an occupation in Switzerland.

Tax base of the lump-sum taxation

The tax base of the lump-sum tax is the worldwide annual living expenses of the taxpayer in Switzerland and their dependents living in Switzerland. To simplify the calculation of this taxable income, expenses for federal and most cantonal taxes are generally deemed to be at least five times the rental value of the individual’s own property.

The law also provides for an additional minimum calculation according to which the tax may not be lower than the tax on specified gross elements of income and wealth according to the regular tax rate. This income includes all income from Swiss sources as well as income for which the taxpayer claims relief from foreign taxation in accordance with a double taxation agreement concluded by Switzerland.

The following amounts must be taken into consideration cumulatively:

One of the following:

- five times the rental value of the individual's own property, or
- five times the rent paid to the landlord in Switzerland, or two times the costs for board and lodging;
- All income derived from Swiss real estate;
- All income derived from movable assets, if the debtor is a Swiss resident individual or legal entity; and
- Income derived from other states, if a tax treaty with that state is invoked.

The hypothetical income is negotiated up front with the tax authorities in whichever canton/ municipality the taxpayer wishes to become resident, and the tax rates applied will vary between the cantons/ municipalities.

Currently, the average lump-sum arrangement that can be negotiated varies between a tax burden of CHF 100,000 (approximately EUR 63,000) and CHF 200, 000 (approximately EUR 126,000) per year.

The taxation of wealth is left to the competence of the cantons and a number of cantons do not levy wealth tax under the lump-sum arrangements. When taxed, the annual lump-sum wealth usually is determined to be at least CHF 2 million, which amount is taxed under the normal net wealth tax rate (on average the net wealth tax rate varies between 0.15% and 0.7%).

Gift and inheritance taxes are not included in the lump-sum taxation. No inheritance, gift or estate tax is imposed at the federal level. Inheritance tax is imposed by the Canton in which the deceased last resided. Each Canton is at liberty to set its own inheritance tax rates, and some do not levy it at all e.g. the Canton of Schwyz.

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The majority of Cantons have low tax rates, and also offer exemptions in certain circumstances e.g. surviving spouse and direct descendants are exempt from inheritance tax.

Proposal

The thrust of the new proposal is to increase the assessment basis for federal and cantonal taxation in relative and absolute terms by increasing the reference expenditure and introducing an absolute minimum threshold.

The lump-sum tax base will therefore still be based on the worldwide annual living expenses, but with a minimum pre-determined threshold, as follows:

- For federal and cantonal tax purposes, the lump-sum tax base will be at least:
  - seven times the rental value of the individual's own property, or
  - seven times the rent paid to the landlord in Switzerland; or
  - three times the costs for board and lodging;
- For federal tax purposes, the minimum tax base will be CHF 400,000
- For cantonal tax purposes, the minimum tax base will be determined by the canton concerned, and
- The cantons will be obliged to take wealth tax into account in their lump-sum taxation.

No lump-sum taxation shall longer be available for Swiss nationals at any time.

Transition period

There will be a transition period of 5 years for taxpayers with an existing lump sum taxation at the time the changes enter into force. Consequently, taxpayers with a valid ruling in place when the new legislation comes into force, can continue to be taxed according to the old rules for five years, i.e. until December 31, 2015 at least.

Action to be considered

It is not expected that the proposal will be in force until the beginning of 2012. Even if these proposals are enacted, the lump-sum regime should still remain attractive to high net-worth individuals looking to move to Switzerland from other jurisdictions.

In the mean time, it will be worthwhile for anyone considering doing so to start their negotiations with the authorities as soon as possible to ensure that they have concluded their negotiations before the new rules come into force so that they can benefit from the 5 year transition period.

Once in force, it is expected that the new rules will increase the cost of any lump‐sum arrangement by between 50%‐100% on average. At that time, it will also be important to calculate the difference between a lump‐sum arrangement and entering Switzerland as a "normal" taxpayer as tax rates in Switzerland even for those who are taxed on their worldwide income and assets are not high by comparison with other European countries. For example, private capital gains on movable assets are not taxed at all at either cantonal or municipal level. Moving to the "right" canton where rates are low can often be more advantageous than negotiating a lump sum. ■

SOUTH AFRICA INTRODUCES DIVIDEND TAX FROM 1 APRIL 2012

On 23 February 2011, South Africa's Minister of Finance presented the Budget for 2011- 2012, which contains a broad range of proposed changes to the corporate and personal income tax rules, social contributions and indirect taxes.

According to the Budget, the corporate tax rate will remain unchanged at 28% and the secondary tax imposed on companies rate will remain at 10%.

Dividend tax of 10%

However, a dividend tax will be introduced with effect from 1 April 2012. From that date the secondary tax on companies will be repealed and replaced with a final withholding of 10% imposed on the shareholder rather than the company.

Prior to the Budget being presented, there was much uncertainty regarding the effective date of the new dividend tax. This has been dependent upon the renegotiation of a number of double tax treaties which provided for a zero withholding tax in respect of dividends flowing from South Africa. The renegotiation was aimed at ensuring that South Africa will in future be entitled to a 5% withholding tax on dividends flowing offshore. ■

ITALY REMOVES MALTA AND CYPRUS FROM BLACKLISTS

By way of a Ministerial Decree issued on 27 July, 2010, Italy removed Cyprus and Malta from its blacklists. The Decree applies as from 4 August 2010, the date it was published in the Official Gazette. Moreover, Cyprus has been added to the white list.

Three blacklists

Italy has three blacklists of countries considered to have tax systems which favour the avoidance of taxation concerning:

1. The residence of individual taxpayers (Ministerial Decree of 4 May 1999).

   Under article 2-bis of the Italian Income Taxes Consolidated Code, an Italian individual will have a presumed continued residence in Italy if the individual transfers his or her residence in countries or territories listed in the Ministerial Decree of 4 May 1999, unless the individual proves otherwise.

2. The tax legislation about Controlled Foreign Companies (or "CFCs") (Ministerial Decree of 23 January 2002).

   In accordance with Italian CFC rules (article 167 of the Italian Income Taxes Consolidated Code), profits of a non-resident entity are deemed to be profits of an Italian resident (individual or company) and taxed at the resident's average tax rate if:

i. the resident controls, directly or indirectly, the non-resident entity;
ii. the non-resident entity is resident in a tax haven as defined in the Ministerial Decree of 23 January 2002, the so-called <u>CFC-blacklist</u>.

The application of the CFC rules can be avoided by obtaining a favourable ruling from the Italian tax authorities. To that effect the resident company should demonstrate that the subsidiary effectively carries on actual business in the country or territory in which it is resident (the "business test"), or that the Italian entity's participation in the subsidiary does not result in allocating income to the entity in the listed jurisdiction (the "effective tax test").

With effect from tax periods starting on or after 1 January 2007, the CFC rules are also extended to "related entities", i.e. those in which the Italian resident directly or indirectly holds a profit entitlement exceeding 20% (10% in the case of stock-quoted companies).

3. The non-deductibility of corporate costs and expenses (Ministerial Decree 23 January 2002).

   This Decree is related to article 110 (10) and (110) of the Italian Income Taxes Consolidated Code stating that costs and expenses are not deductible if they arise from transactions with (non-/ affiliated) companies resident in a non-European Union (EU) Member State with a preferred tax regime as mentioned in the black list of the Ministry of Finance, issued by Ministerial Decree of 23 January 2002, the so-called <u>tax haven blacklist</u>, unless:

i. the resident company can prove that the non-resident company carries on an actual commercial activity.
In accordance with Circular Letter No. 51 of October 6, 2010, the Italian tax authorities require the tax payer to prove that the business activity carried out by the CFC is permanently and continuously connected with the local market, i.e. the local market is the place where goods and/or services are acquired and/or sold by the CFC (so-called "market link"), or
ii. that the transactions have an actual business purpose and have in fact been executed.
The same Circular Letter No. 51 indicates that, in order to evaluate the actual business purpose, all elements should be taken into considerations (i.e., an higher price is not sufficient to disregard the deduction).

In addition, the deduction of expenses paid to blacklisted entities is subordinated to a disclosure in the yearly corporate tax return as a separate item.

Changes to the blacklists

On 27 July 2010 the Ministry made appropriate changes to all three lists, the result of which is that Malta and Cyprus were removed from all three, South Korea has been taken off the CFC-blacklist and the tax haven blacklist, whilst San Marino is still on the blacklist. Below, we will briefly elaborate on the beneficial consequences of these changes.

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The residence of individual taxpayers

From 4 August 2010, Italian individuals who move to Cyprus or Malta are no longer presumed to be resident in Italy for tax purposes unless the Italian tax administration authorities prove the contrary.

Controlled Foreign Companies

Moreover, as a result of the Decree, Italian foreign owned companies established in Malta and Cyprus are no longer subject to Italian CFC rules.

Consequently, for example, if an Italian company controls or has at least 20% of the dividend rights in a company resident in Cyprus (or 10% for an investment in a listed company) it will no longer be taxed on the profits earned by the Cypriot company. Moreover, 95% of the amount of dividends received by an Italian parent from a Cypriot company are exempt from tax and 95% of the gains derived from the sale of shares in a Cypriot company by an Italian parent are exempt from tax.

It should be noted, however, that regardless of the removal from the CFC black list, the CFC regime will still apply if a Cypriot, Korean or Maltese subsidiary of an Italian parent is subject to an effective income tax rate lower than 50% of the Italian tax rate had the subsidiary been an Italian resident and the majority of its revenue is passive income or generated through inter-company services. In such cases, the Italian controlling entity should request a favourable ruling from the Italian tax authorities by demonstrating that the foreign subsidiary is not an artificial structure aimed at taking advantage of undue tax benefits.

The non-deductibility of corporate costs and expenses

Furthermore, there will not be any limitation of deduction of costs and expenses if they arise from transactions with companies resident in Cyprus or Malta.

White list

Apart from the black lists, there is also an Italian white list, that includes jurisdictions with which Italy is able to exchange information and that have a level of tax not significantly different than the Italian income tax.

As a result of the inclusion of Cyprus and Latvia on the white list, companies in those countries can benefit from certain provisions in the Italian tax code that are limited to persons resident in a country that has agreed to an information exchange with Italy. For example, certain capital gains, such as those on listed shares and bonds, and interest on qualifying bonds, realized by Cyprus and/or Latvian qualified investors (e.g. financial institutions) may qualify for an exemption from the Italian 12.5% substitute tax.

Tax planning opportunities

Malta and Cyprus, which are also full member states of the European Union, will now have fully ordinary fiscal status as far as the Italian tax system is concerned. Moreover, there will be no adverse tax consequences for those Italian businesses with subsidiaries or associated companies in Malta or Cyprus.

The removal of Cyprus and Malta from the blacklists opens up tax planning opportunities for Italian individuals and companies using Cyprus and Malta. Examples include taking up a permanent residence in Malta (see article in this newsletter) and setting up an intermediate holding company in Cyprus or Malta.■

The ITPS Group

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ITPS GROUP PROFILE

Needs of clients

As business is becoming more international, organizations are seeking ways to minimize the incidence of taxation linked to it. On the other hand, organizations as well as individuals are seeking international ways to optimize their profits and to protect their assets. The increasing complexity of (tax) laws necessitates careful planning and consideration of the structure to be established and maintained. Customers require highly specialized professional services.

Mission

The purpose of ITPS is: doing the best the things that the customer values most. The focus is long term customer satisfaction. The mission of the ITPS Group is to create value for it's customers through the provision of professional services in the field of international tax planning and structure, designed to optimize the customer's after tax profits.

Services

The objective of ITPS is to meet customer needs for international tax planning and structure by rendering "total offering" services with the highest standards of professional and personal service combined with complete confidentiality.

This comprehensive offering comprises not only the advice for international tax planning (i.e. for legal and tax questions), but also implementation to establish and maintain structures.

These services include, but are not limited to:

- International tax planning;
- Company formation, registered office facility, management,
  accounting and tax compliance;
- Trust and foundation formation and administration;
- Licensing and sub-licensing of intellectual property rights.

The services ITPS does not provide, but which we are rendered by correspondents, include auditing, legal opinions, litigation and portfolio investment.

Why you should use ITPS

The ITPS Group holds an unique position in each of these jurisdictions for the following reasons:

1. Market oriented (and not product oriented):
ITPS focuses on meeting the needs of the clients;
2. Rendering international tax planning and structure (trust) services:
Tax planning and structure services are complementary. Planning is of no use if you do not structure it. Moreover you can not efficiently structure if you do not take the first step: plan the structure. Therefore, the services of ITPS are not restricted to trust services. Since ITPS has the combined skill and experience for more than ten years, high quality is ensured;
3. All included fixed fees for structure (trust) services:
In each jurisdiction, tax structure services are charged at annual fixed fees, generally payable in quarterly installments in advance. Tax planning services are charged at an hourly rate;
4. One contact person is possible for several jurisdictions;
5. Independent:
There is no conflict of interest. ITPS works with all other skilled professionals and (financial) institutions as the client deems appropriate;
6. Personal contact and continuity:
ITPS focuses on long-term customer satisfaction, providing proactive, personal, attentive and competent services;
7. Regular meetings:
Customers and correspondents are visited on a regular basis (three to four times a year) to touch base and to discuss opportunities and problems that may have arisen, without a fee being charged;
8. Tax sparring and education:
ITPS strives to built up a (tax) sparring relationship with customers and correspondents in order to keep each other abreast in a fast changing environment. A quarterly newsletter on international tax planning, the International Tax Planning Newsletter, is sent to inform customers and correspondents on the changes in legislation;
9. An excellent network:
Since ITPS is not part of an international network, it has built up a network of highly skilled professionals to work with.