Details

Service: Tax & Legal

Type: Business and industry issue

Date: 11/03/2016

New list of tax havens for the purpose of the Dividends Received Deduction

As a reminder dividends received from participations in companies that are considered tax havens cannot benefit from the Dividends Received Deduction (DRD).

Article 203 §1 al. 2 BITC considers that a country is a tax haven if:

- either the nominal rate of the corporate income tax is less than 15%
- or the effective corporate tax burden is less than 15%.

For this purpose a list of tax havens is established by royal decree.

Are not included on this list (but do also not qualify for DRD):

- the countries without a corporate income tax system
- or the countries that do not impose corporate income tax on certain companies

A Royal Decree published on 10 March 2016 now adapts this list (first time since 2005).

The new list is much shorter than the old one and contains the following countries: **Abu Dhabi, Ajman, Andorra**, Bosnia and Herzegovina, **Dubai**, Gibraltar, Guernsey, Jersey, **Kyrgyzstan**, **Kuwait, Kosovo,** Liechtenstein, Macao, **Macedonia,** Maldives, Isle of Man, Marshall Islands, Micronesia, **Moldova,** Monaco, **Montenegro**, Oman, Uzbekistan, **Paraguay, Qatar, Ras al Khaimah**, **Serbia, Sharjah, East Timor, Turkmenistan, Umm al Quaiwain**.*

The tax payer can provide the counterproof that a country is not a tax haven. According to the report to the King, it seems that the tax administration requests in this case a double counterproof namely that the nominal rate of corporate tax equals 15% or more and that the effective tax rate equals 15% or more.

The Royal Decree is applicable for dividends **allowed/attributed as from 1 January 2016.**

As an exception to this rule, for accounting periods ending before 1 April 2016, the old list still can be relied upon.

*The countries that are new on the list are in bold.

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