



Roberts Nathan Corporate & Private

Case Study 2

Payment of dividend out of Irish Holding Companies.

BACKGROUND

An Irish holding company has been in existence for some years. This company is under the control of three individuals who are all tax resident in the EU or a country with which Ireland has a double tax treaty. None of these shareholders are tax resident / ordinary resident in Ireland.

This Irish company is a holding company which owns 100% of the issued share capital of a Swiss holding company. The Swiss holding company in turn controls a number of EU manufacturing companies.

The company has surplus funds it wishes to distribute in the most tax efficient manner.

OUR BRIEF

Our brief was to identify and outline the tax implications of the payment of dividends by the Irish holding company to its shareholders.

OUR FINDINGS

As a general rule, the payment of a dividend by Irish companies to its shareholders is subject to Irish withholding tax at the standard rate of 20%.

However, under the rules of EU Parent Subsidiary Directive, it is permissible in certain circumstances to pay the dividends gross (i.e. without deduction of Irish withholding tax). In order for the provisions of the Directive to apply the following conditions must be satisfied:

- (a) The recipient of the dividend must not be either resident or ordinary resident in Ireland.
- (b) The recipient must be resident in an EU member state or a country with which Ireland has a double tax treaty (such as Switzerland).
- (c) A relevant declaration must be made by the recipient to the Irish company paying the dividend. The relevant declaration in question is a standard form available from the Irish Revenue authorities. This form is required to be stamped by the relevant tax authority of the recipient and to indicate that they are tax resident in that jurisdiction.

OUTCOME

As the ultimate shareholders of the Irish holding company are EU residents but are not resident / ordinary resident in Ireland and the relevant declaration was made by the recipients of dividends from the Irish holding company, no dividend withholding tax was deducted in Ireland. In effect the dividends were paid gross to the three individual shareholders.

The three shareholders involved in this Irish holding company continue to enjoy dividend payments on a regular basis without the deduction of Irish withholding tax.

Contact us:

Dublin

4th Floor,
Ulysses House,
Foley Street,
Dublin 1
Ireland

Tel.: +353 1 8764550
Fax: +353 1 8881171

Cork

4th Floor,
The Atrium,
Blackpool Business
Park,
Cork
Ireland

Tel.: +353 21 4217940
Fax: +353 21 4217941

Email:
info@rncap.com
Web: www.rncap.com

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ROBERTS
NATHAN

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