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DOUBLE TAXATION TREATIES IN SPAIN

Anywhere you look not a week goes by without calls for seminars, workshops or events dedicated to internationalization. In times of crisis the companies' thirst for fresh water (ie, new markets) is greater than ever, as new horizons bear the promise of a cure-all for every financial ailment. Perhaps the single most important lesson to be learned in each of these seminars is the need to design and implement a sound strategy.

And one of the basic issues in any internationalization strategy is how to cope with tax, both in your country of origin and in your destination. In order to do this properly, an extensive and effective network of double taxation treaties (DTTs) is a must.

Of course Governments know well the benefits that can be obtained through such an instrument: greater tax competitiveness and efficiency and a better cooperation with the tax authorities in other jurisdictions. That is why the greater its network of treaties the more attractive a jurisdiction becomes in the eyes of the investor.

DTTs help reduce the impact on income obtained by companies and individuals in foreign jurisdictions, chiefly by way of reducing withholding tax. This income usually consists of dividends, interest and royalties, while different rates apply from country to country. In certain situations this means that investing through a foreign jurisdiction rather than your own can make more sense.

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In the 1990's the presence of Spanish companies in the world grew by leaps and bounds, in no small part helped by the Spanish Government's institution of an attractive holding regime and an ever-growing network of DTTs. In a few years, Spain became one of the principal investment platforms for foreign multinationals as well.

Presently, Spain has 86 DTTs in force and another 13 in different stages of conclusion. The American continent is the most relevant area in terms of number of DTTs and its impact on Spanish economy. DTTs in force now exist with Canada, USA, Mexico, Cuba, Jamaica, Barbados, El Salvador, Costa Rica, Panama, Colombia, Venezuela, Trinidad and Tobago, Ecuador, Brazil, Bolivia, Argentina, Uruguay and Chile. Soon to be added will be DTTs with Peru and the Dominican Republic, the latter pending publication.

Colombia is a great example of the importance of good strategy. While rife with opportunity, (GDP growth rate over 4% and a young population of over 47 million), countries like the UK, USA, Japan or China do not have a DTT with it. Enter Spain whose DTT with Colombia has a withholding rate on dividends of just 5%, which can be reduced to 0% when the participation in the Colombian company reaches a minimum of 20%.

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Outside the American continent, Spain's efforts in the past years are commendable, especially in those areas where Spanish presence is not so significant, namely in Asia, the Middle East and former Soviet Republics. This means there are now DTTs in force with Armenia, China, East Timor, Georgia, Hong Kong, India, Indonesia, Iran, Israel, Japan, Kazakhstan, Korea, Kuwait, Malaysia, Pakistan, Philippines, Saudi Arabia, Singapore, Thailand, United Arab Emirates and Vietnam. There are formalities pending in DTTs signed with Azerbaijan, Bahrain, Belarus, Oman, Qatar, Syria and Uzbekistan.

As regards Africa, the number of DTTs is, for the moment, limited to the northern part of the continent (Algeria, Egypt, Morocco and Tunisia) plus South Africa. However, these may be joined in the near future by DTTs with Namibia, Nigeria and Senegal.

This is why it makes sense to check on existing treaties between your country and the target country, and not just tax treaties but agreements on reciprocal protection of investments too, before making that all important decision on where the investment will be funded from. Just remember to pop the question at your next seminar if no one touches upon the subject. It might save you money.