

# THE NETHERLANDS IN BRAZILIAN TAX PLANNING

JOHN GRAHAM  
TTN SAO PAULO  
3 DECEMBER 2009

# ISSUES

- AVOIDING FOREIGN TAX IN CFC SITUATIONS
- TAX HAVENS
- TRANSFER PRICING
- ASSET PROTECTION
- THE CV (LATER TODAY)

# DUTCH TAX RULES

WHY MIGHT YOU HAVE A COMPANY  
IN THE NETHERLANDS?

# NON-TAX

- ESTABLISHED AND RELIABLE LEGAL SYSTEM
- GOOD INFRASTRUCTURE AND PROFESSIONALS
- MOST PEOPLE SPEAK ENGLISH AND ALSO OTHER LANGUAGES
- OFTEN WORK WITH AUTHORITIES IN ENGLISH
- CAN TAKE STEPS AGAINST AUTHORITIES IF THEY ARE UNREASONABLE

# COMPANIES

- TAX RATE MAX 25.5%

BUT

- PARTICIPATION EXEMPTION FOR AT LEAST 5% HOLDING. NO SUBJECT TO TAX RULE, EXCEPT PASSIVE INVESTMENTS

THEN NO TAX ON DIVIDENDS AND GAINS

- RULINGS CAN BE OBTAINED

# RESEARCH AND DEVELOPMENT

SPECIAL "BOX" TAXED AT 5% FROM 2010

MANY DUTCH TREATIES HAVE ZERO  
WITHHOLDING TAX ON ROYALTIES

THE NETHERLANDS HAS NO WITHHOLDING  
TAX ON ROYALTIES PAID

# MAYBE IN FUTURE

GROUP INTEREST BOX:

GROUP INTEREST RECEIVED AND PAID  
TAXABLE/DEDUCTIBLE AT 5%

MANY DUTCH TREATIES HAVE NO  
WITHHOLDING TAX ON INTEREST

THE NETHERLANDS HAS NO WITHHOLDING  
TAX ON INTEREST PAID

# INDIVIDUALS

- "BOX 3" – DEEMED INCOME
- (MOSTLY) NO CAPITAL GAINS TAX
- 30% RULING: PART REMUNERATION EXEMPT; RESIDENTS CAN BE TREATED AS PART NON-RESIDENT

# PAYMENTS TO THE NETHERLANDS

# WITHHOLDING TAXES FROM BRAZIL

DIVIDENDS	15% TREATY, ACTUAL 0%
INTEREST	10/15%
ROYALTIES	15/25% (HIGHER RATE – TM ROYALTIES), ACTUAL 15%

ONE IMPORTANT BENEFIT:

BONUS SHARES NOT TAXABLE, SO ISSUE  
AND REPAY CAPITAL LATER

# TAX SPARING CREDIT

MORE CREDIT GIVEN IN NEHTHERLANDS THAN  
TAX PAID

25% FOR DIVIDENDS TO 10% HOLDING

20% FOR OTHER DIVIDENDS

20% FOR INTEREST

25% FOR ROYALTIES TO 50% PARENTS,  
OTHERWISE 20% (LOWER IN OTHER  
COUNTRIES)

# FROM THE NETHERLANDS

DIVIDENDS FROM NETHERLANDS – 15%

BUT

BONUS SHARES NOT TAXABLE

NO *DIVIDEND* TAX ON PROFIT SHARING  
LOANS – BUT MAY BE 15% TAX AS  
INTEREST

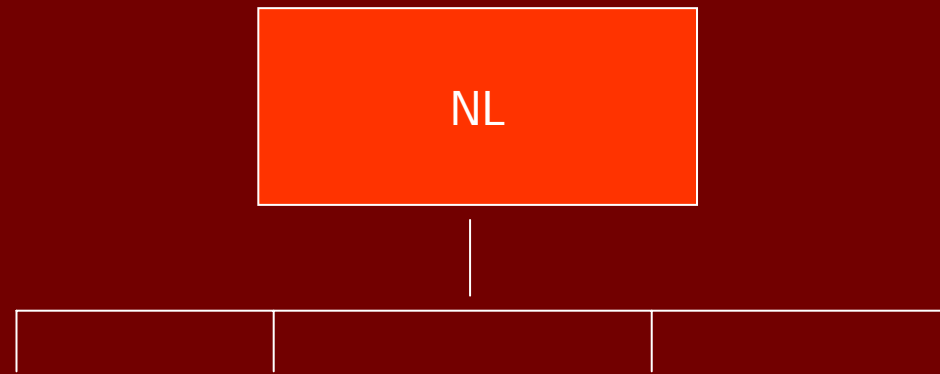
# PLANNING

USE NETHERLANDS AS EUROPEAN  
HOLDING LOCATION

IT IS NOT A TAX HAVEN AND RULES APPLY  
FOR RESIDENTS AND NON-RESIDENTS  
ALIKE

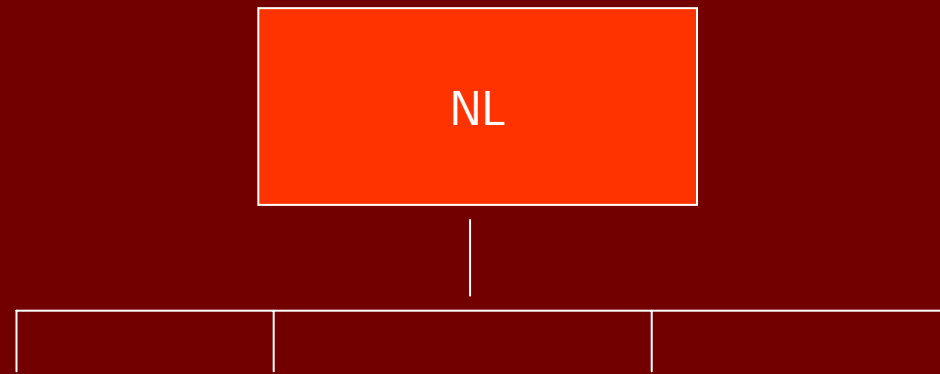
ALSO AVOIDS TRANSFER PRICING ISSUES  
WITH THIRD PARTIES (CARE NEEDED IN  
BRAZIL IN CONDUIT SITUATIONS)

# HOLDING COMPANY



EUROPEAN SUBSIDIARIES – NO WITHHOLDING TAX, NO TAX ON GAIN

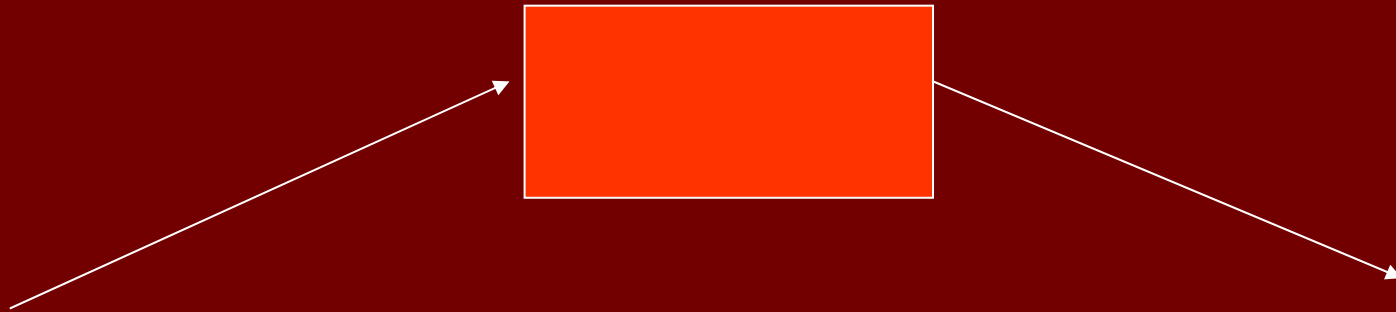
# ROYALTIES



ROYALTIES FROM OTHER COUNTRIES; OFTEN NO WITHHOLDINGS  
5% TAX IN NETHERLANDS (FROM 2010, SUBJECT TO CONDITIONS)

# FINANCE

RECEIVE AND PAY INTEREST WITH A  
MARGIN. USUALLY NO WHT  
MAYBE ONLY 5% TAX ON GROUP  
INTEREST IN FUTURE



# CAN AVOID WITHHOLDING TAX FROM NETHERLANDS

- BY BONUS SHARES
- BY USING COOPERATIVE

# INDIVIDUALS

- FOUNDATIONS TO HOLD ASSETS
- MAYBE INCLUDE PROVISION WHERE ASSETS ARE REPRESENTED BY CERTIFICATES/DEPOSITORY RECEIPTS THAT OWNERSHIP CHANGES AUTOMATICALLY ON CLAIM AGAINST THE HOLDER OF THE CERTIFICATES

# INDIVIDUAL

BRAZILIAN MOVES TO NETHERLANDS  
WITH 30% RULING

ALL CAPITAL GAINS (EXCEPT CERTAIN  
DUTCH ASSETS) ARE TAX FREE

STEP UP ALSO POSSIBLE

# SALARY SPLIT

DUTCH INDIVIDUAL ALSO WORKING IN  
BRAZIL

EXEMPTION WITH PROGRESSION IN  
NETHERLANDS

CAN BENEFIT FROM LOWER RATES IN TWO  
COUNTRIES