

THE NEW UK –DUTCH DOUBLE TAX TREATY

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IMPORTANT CHANGES

- NO TIEBREAKER FOR RESIDENCE OF COMPANIES
- RESIDENCE DEFINITION EXTENDED
- PROVISION TO COVER TRANSPARENT ENTITIES
- DIRECTORS FEES

NO TIEBREAKER (1)

Where by reason of the provision of paragraph 1 of this article a person other than an individual is a resident of both contracting states, then the competent authorities of the contracting states shall determine by mutual agreement the contracting state of which that person shall be deemed to be a resident for the purposes of this convention. In the absence of a mutual agreement by the competent authorities of the contracting states, the person shall not be considered a resident of either contracting state for the purposes of claiming any benefits provided by the convention, except those provided by articles 21, 24 and 25.

NO TIEBREAKER (2)

- COMPANY CAN BE DUAL RESIDENT
- NO-ONE GIVES DOUBLE TAX RELIEF?
- WITHHOLDING TAXES, OTHER INCOME?

NO TIEBREAKER (3)

- Non discrimination article states that nationals of a contracting state shall not be subjected in the other contracting state to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other state in the same circumstances, in particular with respect to residence, are or may be subjected.
- Use of the word “shall” indicates that the authorities have to reach agreement. Do they see it that way?
- EU Compliant?

NO TIEBREAKER (4)

APPARENTLY THIS PROVISION IS NEW
UK POLICY TO TRY TO PREVENT UK
COMPANIES MOVING ABROAD

RESIDENCE

- INCLUDES PENSION SCHEMES
- CHARITABLE AND SIMILAR ENTITIES WHICH ARE ENTIRELY OR PARTLY TAX EXEMPT

TRANSPARENT ENTITIES

- THE TREATY APPLIES TO ENTITIES WHICH ARE TREATED AS TRANSPARENT IN EITHER STATE, PROVIDED THAT THE ITEM OF INCOME IS TREATED FOR THE PURPOSES OF THE TAXATION LAW OF THE RECEIVING STATE AS THE INCOME PROFIT OR GAIN OF A RESIDENT.

DIRECTORS' FEES

- DIRECTORS FEES OF COMPANY IN OTHER STATE – TAXABLE IN OTHER STATE TO EXTENT THAT RENUMERATION ATTRIBUTABLE TO SERVICES RENDERED THERE