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E 1 US Foreign Sales Companies Ruling Belgium

General

US Corporations carrying on sales operations in certain countries other than US (e.g. Belgium) may attribute part of the income realised from the sales abroad to the relevant Foreign Sales Company (FSC). Under certain conditions and limitations, the profits thus attributed to the FSC (as taxable abroad) may be exempted in the US.

Conditions Attached

A US based enterprise establishing a FSC in Belgium may lodge an application with the Belgian central tax authorities for a ruling under which the taxable income is calculated on the basis of a percentage of certain expenses. The applicant must disclose detailed information on itself and the anticipated FSC (e.g. their legal form, activities, nature of the goods sold through the FSC and cost incurred by it).

The FSC may operate in the form of a Belgian company (subsidiary) or a branch office (permanent establishment) of the US base company.

The ruling, granted on individual basis, is valid for a period of three years and it is tacitly renewed unless either party gives a notice of termination 6 months before the end of the three-year period. The US based company must, however, in order to keep the ruling valid, annually produce evidence of the US authorities' recognition of the FSC.

Tax Benefits

Should the FSC operate in the form of a branch office (Belgian permanent establishment of the US based company), the taxable profit in Belgium is determined on a notional cost plus basis with a mark-up percentage of 8%. All "direct" costs incurred by the FSC in respect of advertising and sales promotion activities, transport of goods and assumption of credit risks, may however, be excluded from this notional cost plus tax base. Similarly, the income taxes paid by the FSC are not included in the notional tax base.

In the case where the FSC operates in the form of a subsidiary (a Belgian company) the taxable profit of the FSC is, in principle, determined on the basis of the accounting profit with the necessary tax adjustments. Accordingly, the taxable profit consists of the retained profits, non-deductible expenses and the paid dividends. It is, however, accepted that the FSC's transactions with affiliated companies are at arm's length (the FSC has not granted any abnormal or benevolent advantages) when the thus determined profits are at least 8% of the relevant costs incurred by it (see above).

E 2 Informal Capital Ruling Belgium

General

The concept of informal capital is related to the centralisation (or concentration) of a wide range of corporate functions of a (international) group of companies. The scope of the centralised functions that a group company may assume and carry out on behalf of the group is wide and may include, for example, the following types of tasks:
- commercial strategy development, brand image development, advertising, product development, research activities, distribution strategy planning, co-ordination of vertical management, procurement of raw materials, etc.

Setting up an integrated structure of such separate functions may require "an informal capital injection", i.e. group companies place non-material resources (e.g. know-how) which exist at the group level at the disposal of the group company that assumes the responsibility for certain centralised functions.

Conditions Attached

The measure is available to companies subject to tax in Belgium, other than those taxed under a regime providing for a notional tax base (e.g. co-ordination centres, distribution centres and service centres).

Tax Benefits

Under Article 24 of the Belgian Income Tax Act (Code des impôts sur les revenus) only those profits which result from a company's own activities are taxable in Belgium.

Under the ruling, the part of the profits which relates to informal capital (directly contributing to the generation of income) is not considered as resulting from the company's own activities, but merely as a return on the informal capital.

The informal capital is determined, on a case by case basis and according to the range of activities undertaken, by reference to the net profit margin of the company. This profit margin consists of two elements: the part which is deemed to refer to the company's own activities (always at least 10% of the turnover) and that referring to the informal capital. The informal capital amounts to the sum of the annual profit margin referring to the informal capital during a period of max. 10 years.

The informal capital is amortised for tax purposes over a period of at least 10 years. The injection of the informal capital is not taxable and there is no tax on the informal capital as such but capital gains arising from a subsequent transfer of the informal capital and liquidation proceeds are taxable in Belgium.

E 3 US Foreign Sales Companies Ruling NL

General

US Corporations carrying on sales operations in certain countries other than US (e.g. the Netherlands) may attribute part of the income realised from the sales abroad to the relevant Foreign Sales Company (FSC). Under certain conditions and limitations, the profits thus attributed to the FSC (as taxable abroad) may be exempted in the US.

Conditions Attached

A Dutch FSC carrying on preparatory and auxiliary activities may apply for a cost plus ruling provided for in the Administrative Publication of 25 March 1985 (infobulletin 85/253). The cost plus ruling is granted for a period of 4 years (renewable) and it ascertains the minimum acceptable prices for intra-group transactions of the FSC.

Tax Benefits

According to the Administrative Publication, the cost plus mark-up percentage applicable to all operating expenses may vary, depending on the relevant circumstances, between 5% and 15%.

In order for a FSC to be considered dealing at arm's length it must show a profit of at least the confirmed fixed percentage of the operating expenses. Should the commercial profit, computed under the US rules, exceed the result from the cost plus calculation, the excess amount is deemed to constitute a contribution to the equity of the FSC and is therefore not included in its taxable profit.

The tax on the profit calculated on the cost plus basis is levied at the standard corporate income tax rate of 35%.

E 4 Informal Capital Ruling NL

Conditions Attached

This ruling practice is based on Supreme Court decisions of 3 April 1957 (BNB 1957/165) and 31 May 1978 (BNB 1978/252) in which the informal capital concept was developed in respect of interest free loans between related parties. The ruling may be granted to entities liable to Dutch taxation and it is valid for a period of 4 years (renewable).

Under Netherlands tax law formal contributions to, or withdrawals from, equity capital do not constitute taxable profit. Similarly, informal contributions to, or withdrawals from, a Dutch company's equity capital are not regarded as taxable corporate income. The informal capital ruling granted by a Tax Inspector ascertains the amount of informal capital contribution.

For example, an informal capital ruling may stipulate that any commercial profit in excess of the profit determined under a cost plus method with a fixed mark-up percentage is deemed to be informal capital.

Tax Benefits

The taxable profit of the holder of the informal capital ruling is adjusted with the amount of the informal capital contribution, i.e. the ruling allows its holder to impute an interest deduction on the basis of deemed interest on funds advanced to it by related companies free of charge. The adjusted profit is taxed at the standard corporate income tax rate of 35%. The informal capital contribution is subject to a capital tax at a rate of 1%.

Under Netherlands tax law the profit of the related party that had made the informal capital contribution, is adjusted with a corresponding amount. This corresponding adjustment is, however, only applicable in respect of related companies subject to tax in the Netherlands.

E 5 Foreign Business Operations Relief Denmark

Conditions Attached

The foreign business operations relief is available with respect to foreign business operations through branches located abroad (permanent establishments) as well as conducted through a non-resident subsidiary taxed jointly with the Danish parent company under the Danish 'Joint Taxation' rules. Other activities, such as shipping and transport of goods by vehicles between two foreign destinations, salvage and engineering have also been regarded as qualifying foreign business operations.

Tax Benefits

The tax relief granted to the income from foreign business operations equals 50% of the income tax proportionally attributable to the net taxable income from the foreign business activity. Net foreign-source income is computed according to the Danish tax law. The relief is granted in respect of qualifying income, irrespective of the fact whether this income has been subject to tax abroad. The relief will be gradually abolished by 1/7 a year, as from 1994 when the tax relief was reduced to 6/7 of the full 50% of the tax attributable to the qualifying income. Accordingly, the relief will be completely abolished by year 2000.

E 6 Bénéfice Mondial and Bénéfice Consolidé France

Conditions Attached

Bénéfice Mondial (world-wide income): French resident companies, which have obtained an approval from the Ministry of Economy and Finance may opt to be taxed on their world-wide income by consolidating profits and losses of all foreign direct operations with their own profits and losses.

Bénéfice Consolidé (consolidated income): French resident companies, which have obtained an approval from the Ministry of Economy and Finance may elect to compute taxable profits by consolidating the profits and losses of their French or foreign subsidiaries to their own French source profits and losses. The French parent company must hold at least 50% of the voting rights in the subsidiaries concerned.

The duration of the application of both measures is at the discretion of the parties concerned. It may be revoked or altered if there is a substantial change made to the French corporate income tax rate (more than 5%), in the case of a changeover from world-wide income taxation to consolidated taxation, or in certain cases of abuse. Approvals regarding both these regimes are only granted on a very limited basis.

Tax Benefits

Companies with foreign source income or French and foreign subsidiaries can benefit from consolidated taxation of foreign source income or the relevant part of group companies, respectively. The operating profits and losses are set off against each other in order to reach an aggregate group taxable income.

For the tax consolidation purposes the taxable profits (or losses) of the foreign direct operations or the foreign subsidiaries are calculated under the rules of the French Tax Code (CGI). Accordingly, any depreciation, valuation rules, etc. allowed by foreign tax law but not by French tax law will be adjusted. Long-term and short-term capital gains are also calculated at the level of each branch, subsidiary, etc. and subsequently, with certain adjustments, aggregated at the group level.

Foreign taxes are credited in France. The foreign tax credit, however, is first subject to a per country limitation and then restricted to the French corporate income tax which would normally apply to the income from each country in each taxable year, as recomputed under French rules.

E 7 Foreign Income Ireland

Dividends received by and Foreign branch profits of the Irish resident companies holding the respective certificates, following submission of an investment plan directed towards the creation or maintenance of employment in Ireland or involving additional employment in Ireland, are exempt from Irish corporate income tax.

1) Repatriated Dividends from a Foreign Subsidiary

Conditions Attached

The measure applies to certain dividend repatriations by a foreign subsidiary (51%) located in a treaty country to its Irish resident parent company. A certificate must be obtained from the Minister for Finance on the basis of an investment plan. The dividends must be applied for the purposes of the investment plan which must be directed towards the creation or maintenance of employment in trading operations carried on in Ireland.

Tax benefits

Double taxation relief for the repatriated dividends is provided by way of an exemption from Irish corporation tax rather than the normal way of giving double taxation relief through a credit for foreign tax.

2) Relief for Foreign Branch Trading Profits

Conditions Attached

The measure applies to foreign branch trading profits and related capital gains of an Irish resident company which undertakes an investment project leading to the creation of substantial new employment in Ireland. Companies must be certified by the Minister for Finance on the basis of an investment plan. The investment plan must be framed in accordance with published guidelines. These guidelines stipulate conditions in relation to employment and investment in permanent capital.

Tax Benefits

Double taxation relief for the foreign branch trading profits is provided by way of an exemption from corporation tax rather than the normal way of giving double taxation relief through a credit for foreign tax. Related capital gains are also exempted from capital gains tax.

E 8 Newly Created Companies France

Conditions Attached

The measure is available to new companies (incorporated between 1 January 1995 and 31 December 1999) with industrial, commercial and artisan business activities. The companies must be genuinely new enterprises and they may therefore not have been created as a result of a corporate reorganisation. No more than 50% of the shares (representing the share capital or voting rights) of these companies may be held, directly or indirectly by other companies.

In order to qualify for the benefits of the measure, companies must satisfy with activity and location tests. Certain activities are expressly excluded from the scope of application of the measure. These are banking, financial and insurance activities, management of real estate rental activities and agricultural activities. The premises and the management of the companies must be situated in the defined rural or urban development zones.

Tax benefits

A full corporate income tax exemption for the initial 24 months, which is reduced to 75 per cent, 50 per cent and 25 per cent for each of the three subsequent 12-month periods, respectively.

E 9 Tax Holidays for New Businesses — Luxembourg

Conditions Attached

The measure is available to new enterprises or enterprises manufacturing new products, which stimulate growth and improve the structure of the economy, or which will lead to a better geographical distribution of economic activity, provided that they do not compete with existing business.

Tax Benefits

The amount of the tax relief depends on the extent of investment in land, buildings and equipment and is granted for a fixed period, usually for 8 years starting from the commencement of the new facility. The maximum amount of the tax relief is 25% of the taxable profits.

E 10 Special Depreciation for SMEs — Germany

Conditions Attached

Companies, of which the total taxable net asset value is no more than DEM 240,000 and of which the taxable capital (as determined for the purposes of the business tax on capital) does not exceed DEM 500,000, qualify as small and medium sized enterprises. For the purposes of the special depreciation, these requirements must be met at the beginning of the tax year in which the fixed assets are acquired.

Tax benefits

Small and medium sized enterprises may claim an additional depreciation allowance of 20% of the acquisition cost of movable fixed assets. The allowance may be claimed only in the year of acquisition and it is additional to normally allowed depreciation but deducted from cost for the purposes of calculating tax depreciation in subsequent years. It is available only if the assets are kept in business in Germany by the taxpayer for at least 1 year.

In addition, small and medium sized enterprises may make allocations to a depreciation reserve of up to 50% of the expected manufacturing or acquisition costs of future depreciable assets, with a ceiling of DEM 300,000. The reserve will be taxed as soon as the regular depreciation scheme starts to apply to the new assets. The reserve will also be taxed if no assets are acquired or manufactured within 2 tax years after the reserve was created.

E 11 Incentives for SMEs Spain

Conditions Attached

A company qualifies as small or medium sized company (SME) if its turnover in the preceding tax year was lower than ESP 250 million. If the company is newly created, this threshold is applied to its turnover of the current (first) tax year. The SMEs in Spain are granted a wide range of different tax benefits. Some of the conditions attached to them are dealt with in more detail below.

Tax Benefits

(A) New tangible fixed assets may be freely depreciated for tax purposes, provided that there is an increase in the annual average amount of salaried personnel. The increase in the amount of personnel must be maintained for a total consecutive period of 48 months, starting from the tax year in which the incentive was used for the first time.

(B) New tangible fixed assets of any of which the value does not exceed ESP 100,000 may be freely depreciated for tax purposes, however, only up to a total amount of ESP 2 million for each tax year.

(C) New tangible fixed assets may be depreciated for tax purposes, using an increased rate determined by multiplying the depreciation rate allowed under the official table by a coefficient varying from 1.5 to 2.5. The size of the coefficient depends on the useful life of the asset. For assets with useful life of less than 5 years the coefficient is 1.5, with a useful life of at least 5 but less than 8 years the coefficient is 2.0 and for assets with useful life of at least 8 years the coefficient is 2.5.

(D) SMEs may establish a tax deductible provision for bad debts. The maximum deductible allocation is 1% of the balance of debtors.

(E) SMEs do also qualify for an exemption from corporate income tax on capital gains realised on the disposal of fixed assets. This exemption is subject to the conditions that the capital gains realised do not exceed ESP 50 million per year and that it is reinvested in other fixed assets within 3 years.

(F) From 1 January 1997, the first ESP 15 million of profit made by a SME are subject to tax at a reduced rate of 30%.

E 12 Micro and Small Enterprises — Portugal

Conditions Attached

In order to qualify as a micro or small enterprise a Portuguese resident company or a non-resident company with a Portuguese permanent establishment must meet the following requirements:

1) the turnover of such enterprise may not exceed PTE 600 million in the first year during which the incentive is applied and
2) no more than 50% of it may be, directly or indirectly owned by another enterprise of which the turnover exceeds this turnover limit in the fiscal periods of 1998, 1999 and 2000.

Additionally, the company must carry on industrial, commercial or agricultural activity as its main activity. The measure will be available for the micro and small enterprises during the tax years 1998, 1999 and 2000.

Tax Benefits

Qualifying additional investments of micro, small and medium sized enterprises entitle to a deduction of the taxable corporate income equal to 10% of the relevant additional investment. The deduction, however, may not exceed an amount equal to 30% of the taxable corporate income.

This 30% limit will be increased by 10% where the taxable profit, in the accounting period to which the investment relates, is at least 20% higher than the taxable profit in the preceding period and the enterprise withholds an amount of profit equal to such minimum increase in profits. The withheld profit may not be distributed during the three subsequent fiscal years.

The additional investment is determined as being the difference between the investment made during the relevant accounting period and the simple arithmetic average of the investment made in the previous two accounting periods in fixed assets used by the enterprise within the Portuguese territory.

E 13 Special Scheme for Accelerated Depreciation UK

Conditions Attached

This temporary one-year measure (applicable only in respect of the accounting year ending between 1 July 1998 and 30 June 1999) was introduced in 1998. It is available to small and medium sized enterprises which invest in plant and machinery other than those in connection with leasing of cars, ships, railway assets or long-life assets.

Tax Benefits

Investment in qualifying plant and machinery entitles the SME to an increased first year allowance at a rate of 40% instead of the normal allowable depreciation at a rate of 25% (declining balance method).

E 14 Scheme for Early Depreciation of Certain Assets Denmark

Conditions Attached

The scheme is applicable if the taxpayer has formally entered into a contract on the acquisition of machinery or other capital assets and the acquisition cost (excluding financing costs) of such assets is, in any year, at least DKK 770,000. In determining whether this requirement is met, the acquisition costs of all qualifying assets are pooled each year.

Subject to the same annual acquisition cost limit the scheme is equally applicable in cases where the taxpayer manufactures the asset to be used within his own business.

In order for the taxpayer to apply the scheme, he must have placed a definite order for the purchase of an asset or definite plans must have been made to process an asset within the business. The delivery or completion of such an asset must take place within 4 years.

Tax Benefits

The depreciable basis is the contracted or calculated price of the asset. Once the acquisition agreement has been concluded a total of 30% of the acquisition cost exceeding DKK 770,000 may be depreciated for tax purposes before the delivery or completion of the asset. However, no more than 15% of the acquisition cost may be depreciated in any year before the delivery or completion has taken place.

In calculating what percentage of allowable depreciation pertains to each separate asset, an amount equal to 30% of the pooled acquisition costs in excess of DKK 770,000 is divided among the assets acquired or manufactured in that year in proportion to individual acquisition costs. The resulting figure is then divided by the number of year anticipated for the asset's delivery or completion.

If the acquisition contract is terminated, the delivery does not take place within four years or the plans are abandoned before the completion of the manufacturing process, any advance depreciation taken under the scheme must be brought back to the taxable business income.

E 15 Incentives for Investment (Law 2601/98 ex1892/90) Greece

Conditions Attached

The benefits of the measure are available for investment defined in law 2601/98 of which the purpose is to encourage private investment in Greece, to promote regional development and business competitiveness, and to create employment. In general, the qualifying investments involve the construction, expansion and modernisation of facilities, and the purchase/installation of equipment and technology.

For the purposes of the incentive law, Greece is divided into four major regions/development areas (A, B, C and D). Certain additional benefits are given for investments located in the northern part of Greece known as Thrace (part of region D). With respect to the maximum amounts of the tax concessions, a distinction is made between investments made in the tourism industry (hotels and other tourist accommodation) and investments made in other industry (e.g. in manufacturing and craft industry). Mining enterprises are always regarded as falling in the region C unless they actually come within region D.

Tax Benefits

Qualifying enterprises making eligible investments may claim accelerated depreciation on fixed assets purchased between 1 July 1990 and 31 December 1994. Regular depreciation rates are increased by a percentage of 0% to 150%, depending on the region, the number of work shifts and the sector of the activities.

Enterprises making qualifying investments, as defined in the incentive law, are entitled to income tax exemption for their undistributed profits for a period of ten years as from the investment year.

The incentive law provides also for an investment reserve with respect to new investments in the regions B, C, D and Thrace. A qualifying investor can claim a reduction in taxable profits, provided it is completed by 31 December 2004. The maximum amount, which may be deducted from taxable profits, is determined as a percentage of the net annual profits (from 60% to 100%) in the year of investment and the cost of the investment (from 40% to 100%), again depending on the region.

E 16 Investment Tax Credits Spain

General

Investments in new tangible fixed assets (A), export related investments (B), research and development activities (C), staff training (D), publication of books, films or audio-visual productions (E) and environmental investments (F) qualify for different tax credits dealt with in more detail below.

Conditions Attached and Tax Benefits

The investment tax credits, which may be set off against corporate income tax liability, vary from 5% to 25% of the invested amount:

(A) An amount equal to 5% investments in new tangible fixed assets (except for land) in Spain may be credited against corporate income tax. The assets must be kept in use for a period of at least 5 years (or for the asset's useful life if this is shorter than 5 years).

(B) Investments made to set up foreign permanent establishments, or to acquire at least 25% of the capital in existing foreign companies or newly created foreign subsidiaries. The activities of such branches and subsidiaries must be directly related to the export activities of the Spanish investor (finance and insurance activities do not qualify) or contracting of its tourism services in Spain. In the tax period in which the qualifying (25%) stock ownership is acquired, the total investment made in that year and in the two preceding years qualify for the 25% tax credit.

Similarly, expenses incurred in respect of promotion, publicity and marketing carried out abroad over periods exceeding 1 year entitle the Spanish taxpayers for the 25% export related investment credit.

The export related investment credit is, however, limited to 15% of the investor's income or to 4% of his total export related receipts and it must be reduced by 65% of any subsidies received.

(C) Research and development expenses incurred in any tax year entitle to a tax credit amounting to 20% of these expenses. Should the expenses exceed the average amount of expenses in the preceding 2 tax years, the rate of 20% will apply to an amount equal to the average amount and a rate of 40% to the excess. These credits must be reduced by 65% of any subsidies received.

(D) Staff training related expenses incurred by employers entitle them to a tax credit of 5% of such expenses. Should the expenses exceed the average amount of expenses in the preceding 2 tax years, a rate of 10% will apply to the excess. These credits must be reduced by 65% of any subsidies received.

(E) An investment credit of 5% and 10% (reduced by any subsidies received) is granted for the publication of new books and the production of films (and audio-visual productions), respectively.

(F) A tax credit of 10% is granted for investments in fixed assets made to preserve or improve the environment. The credit must be reduced by the amounts of any subsidies received.

The sum of the above investment credits is limited to 35% of the corporate income tax liability regarding all other investments apart from investments in new tangible fixed assets and environmental investments. In the case of investments in new tangible fixed assets the investment credit is limited to 15% of the corporate income tax liability. Any unused credit may be carried forward for 5 years subject to the 35% or 15% limitation in each period, respectively.

E 17 Tax Credits - Environmental Protection Luxembourg

Conditions Attached

In order to qualify for the tax credit the investments must be used in Luxembourg and they should be intended for environmental protection, saving energy, reducing waste or enabling disabled individuals to work. Certain assets are expressly excluded from the scope of this tax credit. These are: assets depreciated over less than 4 years, assets acquired on the transfer of an enterprise or an autonomous part or subdivision of an enterprise, second-hand assets, assets of which the acquisition price is less than LUF 35,000 and cars for personal use.

Tax benefits

The tax credit is set off against corporate income tax payable and it is granted in addition to the normal tax depreciation on the acquisition price of the same assets. The tax credit amounts to 8% of the acquisition price of all qualifying assets in each tax year up to a maximum value of total investments of LUF 6 million while a reduced rate of 4% is applied in respect of the excess.

E 18 Investment Allowance NL

Conditions Attached

Income tax liable persons conducting a business and companies liable to corporation tax are entitled to an investment allowance on the basis of their investments in fixed assets.

In principle, all investments in fixed assets qualify for the investment allowance. Certain fixed assets, for example, houses, stocks, licences, and cars not meant for road transport and haulage, however, do not qualify.

The investment allowance is wholly or partially withdrawn if the fixed assets, for which the investment allowance was obtained, are sold within a period of 5 years from their purchase.

Tax Benefits

The allowance amounts to a certain percentage of the total sum invested in qualifying fixed assets in any particular year. The allowance can be deducted when calculating the taxable profits. The percentage decreases with the increase of the invested amount. It varies between 0% and 27%, depending on the total sum of investments made as follows (in 1999):

Invested amount (NLG)	Percentage
3,800 – 64,000	27
495,000 – 556,000	3
above 556,000	0

E 19 Major Investment Projects Portugal

Conditions Attached

Individual contractual incentives may be negotiated and agreed with the central government with respect to corporate income taxation (IRC), transfer tax, local real estate tax and stamp taxes. Such incentives are available for industrial investment projects undertaken between 1994 and 1998. The total value of such projects must be at least PTE 5 million and they should be of particular interest for the domestic economy.

Such tax incentives may also be granted under a conventional scheme to investment projects carried out until the end of 1999 even if their total value is less than PTE 5 million, provided that the following requirements are met.

1) the projects are aimed at the reorganisation, modernisation, merger or concentration of enterprises situated in those regions considered to be under economic and social reorganisation, or

2) they are aimed at internationalisation of Portuguese enterprises.

Tax Benefits

With respect to corporate income tax (IRC), the incentive is usually granted in a form of a deduction from the taxable income. The deduction amounts to 10% of the value of the investment.

Otherwise the incentives are established on case by case basis.

E 20 Tax Credit for Investment Portugal

Conditions Attached

This regime is available for Portugal resident companies and non-resident companies with Portuguese permanent establishments, whose main activities consist of exercising commercial, industrial or agricultural activity. Finance and real estate activities are expressly excluded from the scope of application of this measure. The measure will be applied for the last time in 1998.

In order to qualify for the tax credit the investments shall be made in new fixed assets, other than:

- land, except if intended for the purposes of exploration or exploitation of mining concessions, natural and source mineral water, quarries, clay pits and sand pits in extractive industry projects,
- construction, acquisition, repair and improvement of any building other than manufacturing premises,
- light vehicles,
- furniture and comfort or decoration goods,
- social equipment, or
- other capital goods not directly and necessarily connected with the productive activity carried out by the enterprise.

The assets must be kept in the use of the company for a period of at least 3 years.

Tax Benefits

Qualifying additional investments entitle the relevant taxpayer to a deduction from their taxable corporate income an amount equal to 5% of the relevant additional investment. The deduction, however, may not exceed an amount equal to 15% of the taxable corporate income.

The additional investment is determined as being the difference between the investment made during the relevant accounting period and the simple arithmetic average of the investment made in the previous two accounting periods in fixed assets used by the enterprise within the Portuguese territory.

E 21 Gibraltar - Development Incentives UK

Conditions Attached

The Development Aid Ordinance gives tax incentives for both residents and non-residents. Licences may be granted for development projects which meet the following requirements:

The projects must be new projects which create immovable property in Gibraltar. They must either, create 3 houses, benefit tourism, create employment, or improve Gibraltar's economic or financial infrastructure. The applicant must prove the economic benefit to Gibraltar and the project must require an investment of at least GBP 200,000 over 2 years or at least GBP 500,000 over 5 years.

Tax Benefits

If a licence is granted, the company is exempt from corporate income tax in respect of profits arising from the development until the profits exceed the expenditure on the project. In addition, the shareholders are exempt from tax on the distributed profits which have been exempt from the corporate income tax at the hands of the company carrying out the project.

E 22 Rollover of Capital Gains **Germany**

Conditions Attached

Assets qualifying for the measure are: stocks or shares of corporate entities, real estate, buildings, ships, depreciable movable assets with useful lives of at least 25 years and certain agricultural and forestry enterprises' fixed assets. A 6-year holding period prior to sale is required (except for the agricultural and forestry enterprises' fixed assets).

Tax Benefits

Generally 50% of the capital gains realised on the sale of fixed assets (100% in the case of buildings and land) may be deducted from the cost of qualifying replacement assets. If replacement is not effected immediately, the allowable deduction may be carried forward as a tax-free reserve for the following 4 business years (6 years for buildings and ships whose construction has begun within 2 years).

The deduction will also be available against replacement assets acquired in the period prior to that of the sale.

Future depreciation of the replacement assets is based on acquisition cost less the amount of untaxed capital gain, as with involuntary conversions. If replacement assets have not been acquired, the profit for the business year in which the tax-free reserve must be released must be increased by 6% of the released amount for each year the tax-free reserve has existed.

E 23 Reinvested Capital Gains — Portugal

Conditions Attached

The measure is available in respect of capital gains arising from the disposal of tangible fixed assets.

Tax Benefits

The difference between the realised capital gains and capital losses on tangible fixed assets is exempted if the total consideration received is reinvested in the acquisition, production or construction of any elements of tangible fixed assets until the end of the third financial period following its realisation. If only part of the consideration is reinvested, only the corresponding part of the capital gain qualifies for the exemption.

Although such a capital gain is not taxed in the year in which it is realised, it does not necessarily remain untaxed because it is deducted from the acquisition cost of the reinvestment (replacement asset). Accordingly, the exempted capital gain effectively reduces the future depreciation allowances and increases the capital gains realised on a future disposal.

E 24 Small Islands Income Tax Reduction Greece

Conditions Attached

The measure is available to legal persons, joint ventures and associations created under the civil code and which carry on their operations in small Greek Islands with less than 3100 inhabitants.

Tax Benefits

The normal income tax rates are reduced by 40%.

E 25 St Martin and St Barthelemy — France

Conditions Attached

Four particular tax incentive schemes designed to promote the economic development of the over-seas departments apply in the islands of St Martin and St Barthelemy. These are:

A temporary exemption of corporate income tax for enterprises with an approval from the Ministry of Economy and Finance (article 208 q CGI). This measure is applied to corporate income tax liable companies created before 31/12/2001, provided that their objectives and activities have been approved.

A long-term fiscal scheme (article 1655 b CGI) is applicable to limited companies (i.e. société anonyme, société commandite par actions, société à responsabilité limitée) which have as their objective to research and exploit ores in the departments of Guadeloupe, Guyane, Réunion and Martinique, or to carry out agricultural, forestal or industrial activities in the department of Guyane. The application for the prior approval must be lodged with the Ministry of Economy and Finance prior to 31/12/2001.

Reduced tax base scheme (article 217 b CGI) applied to corporate income tax liable enterprises, of which the activities fall within the following sectors: agriculture, tourism, fishing, new energy sources, building and public works, transport, etc.

Investment incentive scheme (articles 199, 163, 217 of the CGI) is available for corporate income tax liable enterprises, of which the activities fall within the following sectors: agriculture, tourism, fishing, new energy sources, building and public works, transport, production and distribution of audio-visual works, etc.

Tax Benefits

The temporary exemption scheme provides for a full exemption from corporate income tax for a period of 10 years from the creation of a qualifying company.

Companies eligible for the long-term fiscal scheme are exempted from corporate income tax liability for a period of 25 years as from their creation.

Only 2/3 of the profits (or losses) are taken into account in calculating the corporate income tax due of the companies qualifying for the reduced tax base scheme. This reduction of the tax base is applicable until the end of 2001.

Investments made in regional development companies carrying on their activities in the over-seas departments entitle to a deduction from the taxable corporate income of the investor up to a maximum of FFR 10,000,000.

NB! Irrespective of any particular regime, the difficulties in enforcing tax laws in St Martin and St Barthelemy have lead to a situation where, in practice, corporate income taxes are not always imposed or collected.

E 26 Mutual Funds / Portfolio Investment Companies Greece

Conditions Attached

The measure (Law 608/70, as amended by Law 1969/91 and Law 2579/98) is applied to entities (mutual funds and portfolio investment companies) whose exclusive purpose is hold securities (shares, bonds, titles of participation in mutual funds, bank deposit certificates, Government treasury bills and other stock exchange titles).

The minimum share capital of an investment company must be at least GRD 500 million, their shares must be listed on the Athens Stock Exchange within 6 months following their formation and the securities owned by them must be deposited for custody with a bank legally operating in Greece.

Tax Benefits

The measure provides for an exemption from all taxes, stamp duties, contributions, etc. levied on capital and revenue from all sources.

E 27 Venture Capital Funds and Companies Spain

Conditions Attached

Companies whose purpose is the promotion, through temporary participation in the share capital, of non-financial (and non-listed neither participating in with more than 25% of the share capital of listed companies) companies, are deemed as venture capital companies (VCC).

The share capital of a VCC must be at least ESP 200 million of which at least 50% must be paid in at the time the VCC is formed and the remaining 50% within 3 years. A Venture Capital Fund (VCF) must have an initial capital of ESP 275 million. A minimum of five shareholders is required in order for a company to qualify as a VCC and correspondingly a minimum of five participants is required for a fund to qualify as a VCF.

A VCC may grant participating loans to its subsidiaries if the loans granted serve its business purpose.

Both VCCs and VCFs must keep at least 60% of their assets in shares or participations in the capital of the 'target companies'. Additionally, both VCCs and VCFs require prior administrative approval and, they must be registered as such with the Ministry of Economy and Finance as well as the Mercantile Registry.

Tax Benefits

- 100% relief from corporate income tax on dividends, regardless of the ownership period and the size of the stock ownership,
- Partial corporate income tax exemption for capital gains on disposal of shares (the exemption amounts from 99% to 50% of the capital gain, depending on the holding period, varying from 3 to 10 years, respectively,
- 100% relief from withholding tax on the distribution of dividends and other profit distributions, regardless of the ownership period and the size of the stock ownership.

E 28 Venture Capital Companies France

Conditions Attached

In order to qualify as a venture capital company and thereby for the beneficial tax treatment, a French company must meet the following requirements:

The company must be incorporated as a stock corporation, i.e. either as a “société anonyme” or a “société commandite par actions”. It must hold shares, convertible bonds or similar securities of French companies subject to corporate income tax and the share holding in each such company may not exceed 40% of the voting rights attached to the shares.

Tax Benefits

Venture capital companies are exempt from corporate income tax on their dividend income and capital gains.

Moreover, the dividend distributions of the venture capital companies attract favourable tax treatment:

In respect of the dividends received the corporate shareholders of the venture capital companies benefit from the long-term capital gains tax treatment (i.e. subject to tax at a rate of 18%), and

Individual shareholders are subject to income tax on dividends received at a flat rate of 16% instead of the regular progressive rates.

E 29 Participation Fund Companies Austria

Conditions Attached

Only Austrian resident limited companies (AGs) can qualify as Participation Fund Companies (PFC). A PFC has to be financed by an issue of certificates providing their owners a pro-rata share of the annual profits of the participation fund. The certificates may be issued up to a maximum of 15 times the nominal share capital of the PFC (of which the nominal amount must be at least 150 million ATS). The participation fund must be invested in Austrian enterprises registered in the commercial register and all investments must be held for a period of at least 10 years.

Tax Benefits

PFCs are exempt from corporate income tax with respect to the part of income attributable to the participation fund. Dividends and other profit distributions from companies in which the PFC participates are exempt from withholding tax. Income received by the holders of the certificates (with the exception of the certificates owned by the PFC itself) is exempt from withholding tax (and is not subject to individual income tax). Special tax privileges apply to participations (and to income received from them) held by the PFC as a trustee.

Conditions Attached

An Investment Company (IC) is a company or economic association, of which the exclusive or semi-exclusive activity is to manage securities or other similar movable property and whose principal objective is to offer its shareholders an investment form that spreads out the risk over a broad portfolio of securities.

In order to qualify as an IC, a large number (several hundred) of individuals must be participants or hold the shares of the IC (in case law it has been held that 80 individual shareholders is not enough to qualify).

This individual shareholders requirement is usually met where an IC is a listed company (on the Swedish Stock Exchange).

Tax Benefits

Capital gains and losses realised on the sale of shares and other securities are disregarded for taxation purposes. Instead, an amount equal to 2% of the market value of the shares and other securities held by the IC at the beginning of each tax year (calendar year) is deemed to be taxable income of the IC (at the standard corporate income tax rate of 28%).

Dividend income received by an IC is fully taxable.

Distributed dividends are deductible but the IC cannot incur taxable loss due to dividend distributions.

Management expenses are deductible.

Unit Trusts (värdepappersfonder)

The same rules apply also to unit trusts, except that an amount equal to 1.5% (instead of 2%) of the market value of the shares and other securities held is deemed taxable (at the standard corporate income tax rate of 28%).

E 31 Limits on Taxes on Commercial Income — Germany

Conditions Attached

The measure applies to commercial enterprises that are liable both to income tax and to the tax on income from trade and industry (Gewerbesteuer). Such businesses whose taxable income exceeds DEM 100,278 is entitled to a relief.

Tax Benefits

The measure provides for a limitation of income tax rates. In calculating the taxable income the “Gewerbesteuer” is a deductible item.

E 32 Fixed Tax – Transferable Securities **Greece**

Conditions Attached and Tax Benefits

This measure (law 2238/94 art. 12) was notified as a measure which does not follow the general business taxation system.

Greece has subsequently indicated that there is not any special tax regime in this sector.

E 33 Representative Office **Spain**

Conditions Attached

The measure is available for Spanish permanent establishments (PEs) / representative offices (ROs) of foreign investors, when the operations of these PEs/ROs do not cover a full production cycle generating income in Spain, the said cycle being concluded by the non-resident company or by one or more of its PEs. No consideration may arise, apart from covering the costs incurred by the PE/RO and no part of the products or services may be intended for third parties. (Article 50(4) of Law 43 of 27 December 1995).

Tax Benefits

The PEs/Ros, as defined in Article 50(4) of Law 43 of 27 December 1995, are liable to pay corporate income tax at the standard 35% rate, but the taxable income is determined on the basis of a fixed cost plus mark-up of total expenses incurred by them in the performance of their activities. The mark-up rate for the purpose of calculating the taxable income is fixed, by an order of 23 December 1997, at 15%.

All income of an accessory nature, such as interest or rents, which does not stem from the object of the representative offices activities, is added to the amount calculated on the cost plus basis. Capital gains or losses accruing from the assets allocated to the representative office are equally taken into account for the purposes of calculating the taxable income in Spain.

E 34 Tax Credits for Job Creating Investment France

Conditions Attached

The measure applies to all companies subject to normal corporate income tax, irrespective of their legal form (sociétés civiles, sociétés commerciales, etc.) or of their activities (commercial, artisan, industrial, agricultural, non-commercial, etc.).

The measure is only applicable in 1998, 1999 and 2000 (when it will expire).

Tax Benefits

The tax credit amounts to FFR 10,000 for each additional employee, calculated as an average number of salaried employees during the year in question and compared with the corresponding number from previous year. The comparison is always made between two subsequent calendar years, even if the financial year (accounting period) of the company would not tally with the calendar year.

The maximum annual tax credit is FFR 500,000 and it can only be set off against the 10% supplementary corporate tax contribution (as provided for in article 235 ter ZA of the CGI).

The credit may be carried forward (until 2000) but it can never lead to a tax refund. In the case where the average number of salaried employees decreases (compared with the corresponding figure of the previous year) the negative balance of the credit can be set off against future credits or against credit carried forward from previous years. If such a set off is not possible, the negative balance must be returned to the treasury. The amount of negative balance that has to be returned to the treasury is limited to the amount of the credits used against the 10% contribution.

E 35 Tax Credits for Staff training Costs — France

Conditions Attached

The measure applies to enterprises which have incurred training expenses that are greater than the respective expenses during the previous calendar year provided that such expenses are not credited against the compulsory contribution to training.

Tax Benefits

The tax credit amounts to 25% of the training expenses exceeding the respective figure of the previous calendar year and it is set off against the company's corporate income tax liability. Should the credit exceed the corporate income tax liability, the excess is refundable. The credit is, however, limited to a maximum amount of FFR 1,000,000 per year.

E 36 Listed Companies – Reduced Rates Italy

Conditions Attached

The measure is available for companies whose shares are quoted on an Italian stock exchange.

Tax Benefits

Under the Italian differentiated income tax system the taxable profits of limited companies are subject to corporate income tax at the standard corporate income tax rate of 37%, except for that part of the profits which is deemed to correspond to a ‘ordinary return on capital’. The part of the income which is deemed to correspond to the ordinary return on capital is taxed at a reduced rate of 19%. The overall tax rate resulting from this differentiated taxation of corporate income may not, however, be less than 27%.

In the case of quoted companies the reduced tax rate applicable to the part of income corresponding to the ordinary return on capital is further reduced to 7% and the minimum overall tax rate is 20% (instead of 27%). These reduced rates are applied to the corporate income during the first three years following the year when the shares of the company were quoted on a stock exchange for the first time.

E 37 SGII Companies Portugal

Conditions Attached

The tax benefits provided for in the measure are available for qualifying real estate investment and management companies (SGIIs) that are authorised by the Minister of Finance. The authorisation (SGII recognition) is granted by way of an administrative ruling.

Tax Benefits

Corporate income tax (IRC) is levied at a reduced rate of 25% (instead of the standard IRC rate of 34%) on the taxable profits of SGIIs. Additionally, immovable property rental income derived by qualifying SGIIs is exempt from withholding of IRC.

The SGIIs are also exempt from the real estate transfer tax (SISA) on the acquisition of immovable property and from municipal tax on buildings or parts of urban buildings intended to be let for residential occupation.

The above mentioned reduced IRC rate and the exemptions apply to SGIIs during their year of incorporation and the following 7 years.

E 38 SCR, SDR and SFE Companies — Portugal

Conditions Attached

The measure (provided for in Articles 23, 24 and 25 of the Rules on tax concessions) was available for

a) venture capital companies (SCRs) incorporated in 1989-1990,

b) regional development companies (SDRs) incorporated in 1989-1992, and

c) business promotion companies (SFEs) incorporated in 1989-1990.

The applicability of the relevant rules has not been extended and therefore, the measure has expired as of 1998.

Tax Benefits

Venture capital companies (SCRs) and regional development companies (SDRs) were exempt from corporate income tax during the first 5 years of their business operations and business promotion companies (SFEs) during the first 8 years of their business operations. Interest received on deposits of these companies did not qualify for the exemption but was subject to tax at a reduced rate of 20%.