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CANARY ISLANDS TAX

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1. NON-RESIDENT INCOME TAX: CHARGEABLE EVENT
 1. Dividends
 2. Interest
 3. Royalties
 4. Director remuneration
2. EXAMPLES OF HOW PAYMENTS TO DIFFERENT COUNTRIES ARE TAXED
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1.- NON-RESIDENT INCOME TAX

Art. 12.1. NRIT Law

Type of income:

1.- Monetary

2.- In kind

Obtained in Spanish territory

CHARGEABLE EVENT

Art. 13. NRIT Law

The following are considered income obtained in Spanish territory:

1 - Dividends and other returns from equity investments in entities resident in Spain.

2 - Interest and other returns on the assignment of own capital to third parties:

- Received from persons or entities resident in Spain; or
- Received from PEs (Permanent Establishments) in Spanish territory; or
- That remunerate capital employed in Spain.

3 - Royalties:

- Paid by persons or entities resident in Spain; or
- Paid by PEs in Spanish territory; or
- Used in Spanish territory

4 – Fees paid to directors and board members, members of boards exercising the functions of directors or board members, or organs representing an entity resident in Spanish territory.

2.1. EUROPE

- Germany - DTC (Double Taxation Convention)

2.2. AMERICAS

- Canada - DTC
- USA - DTC
- Brazil - DTC
- Colombia - DTC
- Peru - No DTC

2.3. AFRICA



- Morocco - DTC
- Senegal, Cape Verde, Ghana, Mauritania - No DTC

2.4. TAX HAVEN

- British Virgin Islands



SPAIN-GERMANY

Double Taxation Convention (*Agreement for the Avoidance of Double Taxation*) dated 3 February 2011



	
Dividends	<p>DTC: Taxation is shared between the Contracting States. If the beneficial owner is resident in Germany, the tax charged in Spain may not exceed:</p> <ul style="list-style-type: none"> ✓ 5% if the beneficial owner is a company with a direct interest of at least 10% of the distributing company's capital ✓ 15% otherwise <p>NRIT Law: Profits distributed by subsidiaries resident in Spain to their parent companies* are exempt provided that:</p> <ul style="list-style-type: none"> ✓ Both companies are subject to, and not exempt from, Spanish Corporate Income Tax (CIT) or a similar tax; and ✓ The distribution is not due to the winding-up of the company. <p>* company with % ownership of 5% of more and maintenance of the shareholding for at least one year</p>
Interest	<p>DTC: If the beneficial owner is resident in Germany, the interest is taxed only in Germany.</p> <p>NRIT Law: Interest earned by a resident in another EU Member State on the assignment of own capital to third parties, with no involvement from a permanent establishment, is exempt.</p>
Royalties	<p>DTC: If the beneficial owner is resident in Germany, royalties are taxed only in Germany.</p> <p>NRIT Law: Royalties paid by companies resident in Spanish territory to companies resident in the EU are exempt provided that:</p> <ul style="list-style-type: none"> ✓ Both companies are subject, and not exempt from, Spanish CIT or a similar tax; ✓ The two companies are associates**; ✓ The shareholding is maintained for one year; and ✓ The EU company that receives the royalties is the beneficial owner. <p>** Direct interest of 25% or more; a third party owns a direct interest of 25% or more in both companies</p>
Directors' fees	<p>DTC: Taxation is shared between the Contracting States.</p> <p>NRIT Law: Tax rate of 24.75%.</p>

SPAIN-CANADA

Double Taxation Convention dated 23 November 1976



	
Dividends	<p>DTC: Taxation is shared between the Contracting States. If the beneficial owner is resident in Canada, the tax charged in Spain may not exceed 15%.</p>
Interest	<p>DTC: Taxation is shared between the Contracting States. If the interest is subject to taxation in Canada, the maximum tax rate in Spain is 15%.</p>
Royalties	<p>DTC: Taxation is shared between the Contracting States. If the royalties are subject to taxation in Canada, the maximum tax rate in Spain is 10%.</p> <p>However: Royalties for copyright and other similar consideration for the production or reproduction of literary, dramatic, musical or artistic works may only be taxed in Canada, provided that they are taxable in Canada.</p>
Directors' fees	<p>DTC: Taxation is shared between the Contracting States. NRIT Law: Tax rate of 24.75%.</p>

Double Taxation Convention dated 22 February 1990

 	
Dividends	<p>DTC: Taxation is shared between the Contracting States.</p> <p>If the beneficial owner is resident in the US, the tax charged in Spain may not exceed:</p> <ul style="list-style-type: none"> ✓ 10% if the beneficial owner is a company that holds at least 25% of the company's shares with voting rights. ✓ 15% otherwise.
Interest	<p>DTC: Taxation is shared between the Contracting States.</p> <p>If the beneficial owner of the interest is resident in the US, the tax charged in Spain may not exceed 10%.</p>
Royalties	<p>DTC: Taxation is shared between the Contracting States.</p> <p>If the beneficial owner is resident in the US, the tax charged in Spain may not exceed:</p> <ul style="list-style-type: none"> ✓ 5% for royalties paid for copyright over literary, dramatic, musical or artistic works. ✓ 8% of royalties paid for the use of or right to use cinematographic films, recordings, tapes or other methods of broadcasting or reproducing image or sound, the use of or rights to use industrial, commercial or scientific equipment or for copyright over scientific works. ✓ 10% otherwise.
Directors' fees	<p>DTC: Taxation is shared between the Contracting States.</p> <p>NRIT Law: Tax rate of 24.75%.</p>



SPAIN-BRAZIL

Double Taxation Convention dated 14 November 1974

	
Dividends	DTC: Taxation is shared between the Contracting States. The tax charged in Spain may not exceed 15%.
Interest	DTC: Taxation is shared between the Contracting States. The tax charged in Spain may not exceed 15%.
Royalties	DTC: Taxation is shared between the Contracting States. The tax charged in Spain may not exceed: <ul style="list-style-type: none"> ✓ 10% of any consideration paid for copyright over literary, artistic or scientific works (including cinematographic films, recordings or tapes of television or radio programmes produced by a resident of one of the Contracting States). ✓ 15% otherwise.
Directors' fees	DTC: Taxation is shared between the Contracting States. NRIT Law: Tax rate of 24.75%.



SPAIN-COLOMBIA

Double Taxation Convention dated 31 March 2005

	
Dividends	<p>DTC: Taxation is shared between the Contracting States. If the beneficial owner is resident in the Colombia, the tax charged in Spain may not exceed:</p> <ul style="list-style-type: none"> ✓ 5% of the gross amount of the dividends. ✓ 0% of the gross amount of the dividends if the beneficial owner is a company which holds directly or indirectly at least 20% of the capital of the company paying the dividends.
Interest	<p>DTC: Taxation is shared between the Contracting States. If the beneficial owner is resident in Colombia, the tax charged in Spain may not exceed 10% of the gross amount of the interest.</p> <p>Nevertheless, such interest may only be taxed in Colombia if:</p> <ul style="list-style-type: none"> ✓ The beneficial owner is the State of Colombia, one of its political subdivisions or one of its local entities; or ✓ The interest is paid in relation to a credit sale of goods or equipment to a Colombian business; or ✓ The interest is paid on loans granted by a bank or credit institution resident in Spain.
Royalties	<p>DTC: Taxation is shared between the Contracting States. If the beneficial owner is resident in Colombia, the tax charged in Spain may not exceed 10% of the gross amount of the royalties.</p>
Directors' fees	<p>DTC: Taxation is shared between the Contracting States. NRIT Law: Tax rate of 24.75%.</p>



SPAIN-PERU

No Double Taxation Convention is in place

	
Dividends	NRIT Law: Dividends and other returns on equity investments in a Spanish entity are taxed in Spain at the rate of 21% (NRIT Law, Additional Provision Three).
Interest	NRIT Law: Interest and other returns on the assignment of own capital to third parties are taxed in Spain at the rate of 21% (NRIT Law, Additional Provision Three).
Royalties	NRIT Law: Royalties paid by an entity resident in Spain are taxed in Spain at the general rate of 24.75% (NRIT Law, Additional Provision Three).
Directors' fees	NRIT Law: Fees paid to directors and board members, members of boards exercising the functions of directors or board members, or organs representing an entity resident in Spanish territory are taxed in Spain at the general rate of 24.75% (NRIT Law, Additional Provision Three).

SPAIN-MOROCCO






Double Taxation Convention dated 10 July 1978

	
Dividends	<p>DTC: Taxation is shared between the Contracting States. The tax charged in Spain may not exceed:</p> <ul style="list-style-type: none"> ✓ 10% of the gross amount of the dividends if the beneficiary of the dividends is a company (excluding partnerships) which directly holds legal title to at least 25% of the capital of the company paying the dividends. ✓ 15% of the gross amount of the dividends otherwise.
Interest	<p>DTC: Taxation is shared between the Contracting States. The tax charged in Spain may not exceed 10% of the gross amount of the interest.</p>
Royalties	<p>DTC: Taxation is shared between the Contracting States. The tax charged in Spain may not exceed:</p> <ul style="list-style-type: none"> ✓ 5% of the gross amount of royalties received as consideration for the use or assignment of use of the copyright over literary, artistic or scientific works, with the exclusion of cinematographic and television films. ✓ 10% of the gross amount of royalties paid for the awarding of licences to use patents, designs, models, plans, formulae or secret procedures, as well as any amounts paid for the awarding of licences to use trademarks, for the rental of rights to use cinematographic or television films, similar considerations for the supply of information on industrial, commercial or scientific experiments, remuneration for technical or economic studies or for the right to use agricultural, industrial, commercial or scientific equipment.
Directors' fees	<p>DTC: Taxation is shared between the Contracting States. NRIT Law: Tax rate of 24.75%.</p>

2.3. AFRICA



SPAIN-SENEGAL*-CAPE VERDE-GHANA-MAURITANIA

No Double Taxation Conventions are in place. *A Spain-Senegal DTC is currently being processed.

    	
Dividends	NRIT Law: Dividends and other returns on equity investments in a Spanish entity are taxed in Spain at the rate of 21% (NRIT Law, Additional Provision Three).
Interest	NRIT Law: Interest and other returns on the assignment of own capital to third parties are taxed in Spain at the rate of 21% (NRIT Law, Additional Provision Three).
Royalties	NRIT Law: Royalties paid by an entity resident in Spain are taxed in Spain at the general rate of 24.75% (NRIT Law, Additional Provision Three).
Directors' fees	NRIT Law: Fees paid to directors and board members, members of boards exercising the functions of directors or board members, or organs representing an entity resident in Spanish territory are taxed in Spain at the general rate of 24.75% (NRIT Law, Additional Provision Three).

SPAIN- BRITISH VIRGIN ISLANDS

Tax haven (Royal Decree 1080/1991) – no DTC

	
Dividends	NRIT Law: Dividends and other returns on equity investments in a Spanish entity are taxed in Spain at the rate of 21% (NRIT Law, Additional Provision Three).
Interest	NRIT Law: Interest and other returns on the assignment of own capital to third parties are taxed in Spain at the rate of 21% (NRIT Law, Additional Provision Three).
Royalties	NRIT Law: Royalties paid by an entity resident in Spain are taxed in Spain at the general rate of 24.75% (NRIT Law, Additional Provision Three).
Directors' fees	NRIT Law: Fees paid to directors and board members, members of boards exercising the functions of directors or board members, or organs representing an entity resident in Spanish territory are taxed in Spain at the general rate of 24.75% (NRIT Law, Additional Provision Three).

3.1. What would happen if the non-resident entity...

DID NOT HAVE A PE* IN SPAIN?

Taxation without the involvement of a PE

- Taxation on a transaction-by-transaction basis
- Instant accrual
- Taxable base = gross income
- General rate of 24.75%
- Special rates depending on type of income

HAD A PE* IN SPAIN?

Taxation with the involvement of a PE

- Taxation of the economic return obtained
- Accrual on last day of the tax period
- Taxable base = net income (income - expenses)
- Tax rate of 30%



Taxation via PE

- ✓ The DTCs signed by Spain generally establish that dividends, interest and royalties are to be taxed as business profits when attributable to a PE.
- ✓ The following income is attributable to a PE (article 16 NRIT Law):
 - Earnings from activities or economic operations carried out by a PE.
 - Returns on PE assets or liabilities.
 - Capital gains or losses on PE assets or liabilities. An equity investment in a company is only considered a PE asset when the PE is a branch registered as such with the Mercantile Registry.
- ✓ If these earnings are not attributable to the PE, they are taxed based on the type of income.

*PE: Permanent Establishment

ZEC (*Zona Especial Canaria* or “Canary Islands Special Zone”) entities Law 19/1994, article 45 et seq.

- ✓ The following are exempt:
 - Interest and returns from the assignment of own capital to third parties.
 - Gains earned on moveable capital without the involvement of a PE.
 - Profits distributed by Spanish subsidiaries to their parent companies. This exemption is extended to residents of **non**-EU states.
- ✓ The above exemptions do not apply to earnings obtained through countries or territories with which Spain does not have an effective exchange of information or when the parent company is located in a tax haven.

ETVEs (*Entidades de tenencia de valores extranjeros* or “foreign securities holding companies”)

Royal Legislative Decree 4/2004, article 118

- ✓ Profits distributed by an ETVE are understood not to have been earned in Spanish territory when:
 - The recipient is an entity not resident in Spanish territory, and
 - Such profits are due to dividends or the transfer of shareholdings in foreign entities.

- ✓ Requirements:
 - Minimum shareholding of 5%.
 - Cost of acquisition of at least Euros 6 million.

4. SUMMARY TABLE

DISTRIBUTOR	RECIPIENT							
	EU		NON-EU WITH DTC ¹		NON-EU WITHOUT DTC		TAX HAVEN	
SPANISH ENTITY	Dividends	0%	Dividends	5%-15%	Dividends	21%	Dividends	21%
	Interest	0%	Interest	10%-15%	Interest	21%	Interest	21%
	Royalties	0%	Royalties	5% -15%	Royalties	24.75%	Royalties	24.75%
ZEC ENTITY	Dividends	0%	Dividends	0%	Dividends	0%	Dividends	21%
	Interest	0%	Interest	0%	Interest	0%	Interest	21%
	Royalties	0%	Royalties	0%	Royalties	0%	Royalties	24.75%
ETVE	Dividends	0%	Dividends	0%	Dividends	0%	Dividends	21%
	Interest	0%	Interest	10%-15%	Interest	21%	Interest	21%
	Royalties	0%	Royalties	5%-15%	Royalties	24.75%	Royalties	24.75%

1. Tax rates applicable under the DTCs signed by Spain with the different countries analysed in this presentation.

4. SUMMARY TABLE (continued)

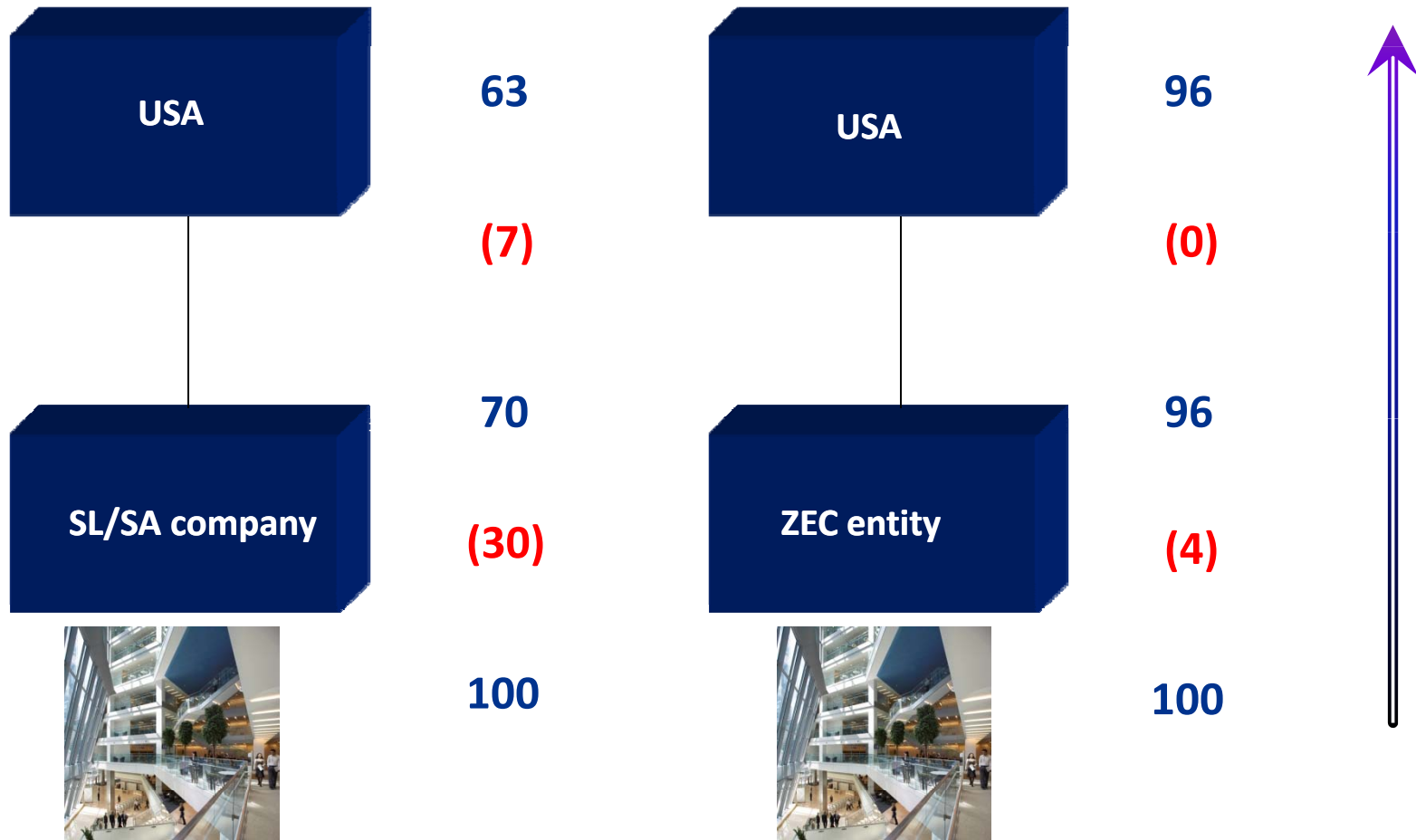
Example: distribution of dividends by subsidiary to parent with 50% shareholding

DISTRIBUTOR OR	RECIPIENT						
	Gross amount	Tax net of CIT	50% shareholding	EU	NON-EU WITH DTC	NON-EU WITHOUT DTC	Tax haven
NON-ZEC	1,000	700	350	350	297.5	276.5	276.5
ZEC	1,000	960	480	480	480	480	379.2
ETVE ¹	1,000	1,000	500	500	500	500	395

1. Scenario in which the exemption for international double taxation can be applied to all income earned by the ETVE (article 21 of Spanish CIT law).

4. SUMMARY TABLE (continued)

Example I: distribution of dividends by subsidiary in Canary Islands to parent in the US



4. SUMMARY TABLE (continued)

Example II: distribution of dividends Canary Islands-USA/LLC-Japan

Japan	56.7	Japan	63	Japan	86.4
	(6.3)		(0)		(0)
USA	63	Transparent LLC (USA)	63	Transparent LLC (USA)	86.4
	(7)		(7)		(9.6)
SL/SA company	70	SL/SA company	70	ZEC	96
	(30)		(30)		(4)
	100		100		100





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