DOWER
LAW FIRM

MAY | 2024

Highlights in company taxation in 2024

Madeira – an attractive tax regime in the EU

Madeira is an outermost region with a special tax regime designed to attract and compensate investment in the region.

What corporate income tax rates are applied in Madeira?

The corporate income tax rate is 14.7% for most companies located in the autonomous region. In the case of small and medium-sized companies, a rate of 11,9% applies for the first €50,000 of taxable income.

For companies registered in the Madeira International Business Centre (Madeira Free Trade Zone), the corporate income tax rate is 5%.

Are there any other tax advantages associated with Madeira?

Yes, there are various tax benefits for both the Free Trade Zone and Madeira.

Within the scope of the Free Trade Zone, the exemption from withholding tax on the distribution of income to non-resident partners and shareholders is noteworthy. For companies carrying out activities in certain industrial sectors, there is also a 50% deduction from corporate dividends tax.

In the Autonomous Region, it is worth highlighting the possibility of deducting 35% of relevant investments from corporate income tax, reductions and exemptions from IMI and IMT, among others.

Who can access the Free Trade Zone regime?

Entities carrying out industrial, marine, commercial and service activities.

What requirements must be met to benefit from this regime?

You need to create between 1 and 5 jobs in the first six months and make a minimum investment of €75,000 in assets in the first 2 years or create at least 6 jobs.

Are there any associated costs?

The Madeira International Business Centre charges a set-up fee and an annual fee, the amounts of which vary depending on the type of company and profit.

Does the regime have limits?

Yes, the tax base covered by the reduced rate has maximum limits, set according to the number of jobs created.

Furthermore, the applicable tax benefits as a whole are subject to a ceiling, which consists of 20.1% of the gross added value generated annually in Madeira, or 30.1% of the annual labour costs incurred in Madeira, or 15.1% of the annual turnover in Madeira.

The EU directive on minimum global taxation

What's it about?

Directive 2022/2523 incorporates the rules of Pillar II, a regime created by the Organisation for Economic Co-operation and Development. This regime aims to ensure that multinational groups, and large national groups within the EU, are subject to a minimum effective tax rate of 15 per cent in all jurisdictions where they operate.

Is it already in force?

Yes, the directive came into force on January 1st of 2024.

Who does it apply to?

Multinational groups and large national groups with annual profits of 750 million euros or more.

How is this minimum effective taxation guaranteed?

If the group is found to have been taxed at less than 15% in a given jurisdiction, a supplementary tax will be due to the extent of the difference between the effective jurisdictional rate and 15%.

How is jurisdictional taxation assessed?

Based on the consolidated financial statements, the Directive establishes the admissible income and the taxes covered for all the entities located in the jurisdiction. The effective jurisdictional rate results from dividing the taxes covered by the admissible income.

Who is required to pay the supplementary tax?

The tax is levied on the group's parent entity by the state where it is located. If this is not possible, namely because it is located in a third country that does not apply Pillar II rules, the tax will be levied on intermediate parent entities. If it is still not possible to collect the tax, it will be levied on the other constituent entities of the group.

The Directive gives states the option of adopting a national complementary tax. If this tax is calculated and applied in accordance with the rules of the directive, it will be the state that subtributed the profits of the companies located there that will collect the complementary tax and thus safeguard tax revenue. If the application of this tax does not result in minimum taxation, the general mechanics already described will apply and the revenue will go to the other states. Switzerland, the Netherlands, Luxembourg and Germany are some of the countries that have implemented this rule.

Do these rules apply in all EU member states?

Not just yet.

States with up to 12 final parent entities located there could have opted to defer the application of these rules for six tax years. These states had to have notified the Commission of the exercise of the option by the end of the year. Estonia, Lithuania and Malta are some of the countries that have exercised this option.

On the other hand, some states have not transposed the directive. EU directives need to be transposed by member states in order to take effect at national level. Portugal has not transposed the directive and it is not known whether it has opted for deferred application. The Commission has already notified Portugal to proceed with transposition and, if the state continues to fail to fulfil its obligations, an action could follow before the Court of Justice of the European Union.

The attractive regime of the Free Trade Zone could prove unprofitable for companies that fall within the scope of the Directive.

Andreia Júnior
Associada Sénior · Senior Associate
aj@dower.pt