



FÉNIX

THE MARLBOROUGH TRUST NEWSLETTER

Marlborough Trust

Welcome to Fénix

EDITION 13

Phoenix has gone Portuguese this month. The reason for this is to celebrate the establishment of Marlborough Management Madeira Lda, our new presence within the European Union.

Opportunities

There are a number of advantages of operating in Madeira not least because the current corporate tax rate is 3%. This rises to 5% in 2013. There are also currently 0% companies available up until 2013. The 5% tax rate has also been confirmed by the EU until 2020.

EU Law

For UK residents using Madeira has the added attraction of being in the EU. Under Article 56 of the Treaty of Rome every EU citizen has the freedom to move capital within the EU without penalty. Article 43 also gives every EU citizen the freedom to establish a business anywhere in the EU without penalty.

An important case in this context is *Hughes de Lasteyrie v Ministre de l'Economie* where a French resident transferred a local business to Belgium. This led to a tax advantage and France attempted to impose tax on a deemed disposal of assets however Article 43 contravened and the European Court of Justice rules in favour of the taxpayer.

Using EU law provides an added layer of protection against attack by HMRC however care needs to be taken to ensure that a suitable presence is maintained in the member state as discussed later.

Double Tax Treaties

Madeira utilises the double tax treaties of Portugal and therefore has access to 38 treaties including potentially favourable treaties with the UK, China and Ireland. The treaties are all relatively modern and therefore the terms are defined more clearly than some of those in offshore jurisdictions allowing greater certainty when planning between jurisdictions.

It is also possible to receive dividends in Madeira at reduced rates, or even nil rate, and then transfer those dividends outside of the EU with no withholding tax.

Furthermore the UK / Portuguese treaty is very specific about what constitutes a permanent establishment as, for example, a building site in the UK owned by a Madeiran company is not a permanent establishment providing that it does not exist for more than 12 months.



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VAT

As from 1st July 2008 the VAT rate in Madeira will drop to 14%, the lowest in Europe. This can be used extensively for trading and e-commerce activities supplying goods to other EU member states at a competitive advantage.

Anti-Avoidance

In order to ensure that the presence of a company in Madeira has substance we offer to rent office space to individual client companies, employ local Madeirans directly for the company and run the business as it should be done rather than as a registered office facility. This is vital if an investigation is ever mounted by the Revenue. The various EU treaties do allow freedom of movement between member states however the reason to do so cannot be wholly to avoid tax therefore by establishing a presence in the country this further provides justification commercially and the tax advantages are simply an added bonus!

This month the directors have mainly been drinking...

We could obviously not issue a newsletter without commenting on our recent exploits.

Adrian has been drinking an Italian pinot grigio by Fullers, a very crisp and light white wine that is being crash tested in preparation for the barbecue season.

Ben has been opting for Tias Barbera d'Asti which is an Italian red that is extremely fruity with plenty of low notes, not dissimilar to Ben.

Nick has mainly been drinking Macon Clos de la Crochette 2006, the key to this stunning white is that the maker is Comtes Lafon. According to Nick they are a legend, the wine maker that is, not Nick (I think).

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