

## **France now considers Jersey, Bermuda, British Virgin Islands as uncooperative tax jurisdictions**

As of 2010 the French finance law introduced the concept of uncooperative jurisdictions with the aim of strengthening anti avoidance rules and the related tax consequences on transactions involving these jurisdictions. The list of these jurisdictions is updated every year by the Ministry of Finance based on specific criteria.

On 21<sup>st</sup> August 2013, the French Ministry of Finance released the yearly update of blacklisted jurisdictions list, which surprisingly now includes the British Virgin Islands, Bermuda and Jersey. No reasons are given for this modification.

The classification of these countries as uncooperative jurisdictions entails severe implications for taxpayers who have interests in these countries as of 1<sup>st</sup> January 2014.

First of all, this triggers the application of a 75% withholding tax on every payment made to these countries either when the beneficiary is located in this jurisdiction or when the payment is made to a bank account located in this country. This tax will apply to dividends, interests, royalties and service fees.

Furthermore, the uncooperative jurisdictions are subject to strengthened anti-avoidance rules. These mainly consist of the exclusion from the parent subsidiary regime, the reinforcement of the CFC rules and the impossibility to offset the withholding tax levied on the passive income from these countries.

For the time being, two possibilities could be contemplated in response to this development:

1. Amending the structure of the assets held in these jurisdictions before the 31<sup>st</sup> of December
2. Challenging the Finance Ministry's regulation on the grounds that Section 238-0-A of the French Tax Code provides that the regulation released by the ministry should explain the motives for the classification of the jurisdiction as uncooperative. This was not the case here.

Please do not hesitate to contact us should you have any questions.

Best regards,

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