

October 2011

Similarities and Differences of a Branch and Local Subsidiary

We refer to your request to us to highlight the similarities and differences of a branch versus a subsidiary from a taxation stand point.

Commentary

The most common form of operating structure for non-residents doing business in Trinidad and Tobago (T&T) is by the registration of a branch or incorporate a local subsidiary.

In either case it is a relatively simple filing process that can be completed in a matter of weeks and at a reasonable cost.

Similarities

- A branch of a non-resident company or a local subsidiary company carrying on business in T&T is assessable to corporation tax on all profits accruing in or derived from T&T at the current rate of 25% and 35% in the case of companies engaged in the manufacture of petrochemicals.
- In addition, both are also subject to the following local taxes on its income/profits: -
 - Business Levy - 0.20% of gross revenue (but only after a three-year period of exemption and where this exceeds the corporation tax liability).
 - Green Fund Levy - 0.1% of gross sales and receipts
 - Withholding Tax - 5% of dividend paid by subsidiary or branch profits deemed repatriated.
- Both would be required to register for VAT provided their commercial supplies are in excess of TT \$200,000 (to be increased to TT\$350,000) per annum or part thereof.
- Profits accruing from activities carried on outside of T&T by a non-resident, whether through a branch or subsidiary company, will not be assessable to local taxes.

Differences

- Costs paid by a local subsidiary to its non-resident parent company that are regarded as management charges and are subject to withholding tax usually at the rate of 15%. By virtue of the Double Taxation Relief (India) Oder, 1999 the rate is reduced to 10%
- Costs allocated to a local branch from its overseas head office are not to be regarded as management charges and are not subject to withholding tax.
- Generally a local subsidiary can claim as a deduction the lesser of the management charges or up to 2% of outgoings and expenses which are paid to a non-resident company. In the case of such payments to an Indian resident company, however, we are of the opinion that there is no restriction.
- There is no restriction on the deductibility of cost allocated to a local branch by its head office provided they are reasonable, properly supported by documentation and consistently applied.
- Where fixed assets are transferred from a head office to be used by a Trinidad branch, tax depreciation at the prescribed rates will be allowed for the period of time that the fixed assets are in use. Where the fixed assets are transferred back to head office after completion of the work in T&T, such transfer will not be considered a taxable event and as such, there will be no recapture of the tax depreciation previously claimed.
- Where fixed assets are transferred from a local subsidiary to a parent company, such transfer is to be regarded as a sale and depending on the proceeds derived from such sale, a taxable event may arise.

Contact Information

For further information, please contact:

Robert Alleyne

Partner, Tax

Phone: 623 1081 ext 4113

E-mail: ralleyne@kpmg.co.tt

and/or

Gillian Wolffe-O'Neil

Director, Tax

Phone: 623 1081 ext 4246

E-mail: gwolffeoneil@kpmg.co.tt

and/or

Nicole Joseph

Senior Manager, Tax

Phone: 623 1081 ext 4247

E-mail: nicolejoseph@kpmg.co.tt

Address:

KPMG

69-71 Edward Street

Port of Spain

Trinidad and Tobago, WI

Phone: (868) 623 1081

Fax: (868) 623-1084

Disclaimer: The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.