

Subsidiary Legislation made under s.47M.

Income Tax (Interest and Royalties) (Switzerland) Regulations 2006

LN.2006/070

Commencement **18.5.2006**

EU Legislation/International Agreements involved:

Directive 2003/48/EC

Council Decision 2004/911/EC

Council Decision 2004/912/EC

ARRANGEMENT OF REGULATIONS

Regulation

1. Title.
2. Interpretation.
3. Competent authority.
4. Taxation of dividends.
5. Taxation of interest and royalty payments.

2010-21

Income Tax

2006/070

**Income Tax (Interest and Royalties) (Switzerland)
Regulations 2006**

In exercise of the powers conferred on me by section 47M of the Income Tax Act as read with section 23 of the Interpretation and General Clauses Act and in order to implement in Gibraltar—

- (a) Council Decision 2004/912/EC of 25 October 2004 on the conclusion of the Agreement in the form of an Exchange of Letters between the European Community and the Swiss Confederation on the date of application of the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments; and*
- (b) Council Decision 2004/911/EC of 2 June 2004 on the signing and conclusion of the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments and the accompanying Memorandum of Understanding,*

I have made the following Regulations—

Title.

1. These Regulations may be cited as the Income Tax (Interest and Royalties) (Switzerland) Regulations 2006.

Interpretation.

2.(1) In these Regulations and unless the context otherwise requires, “limited company” covers with regard to Switzerland—

- (a) société anonyme/Aktiengesellschaft/società anonima;
- (b) société à responsabilité limitée/Gesellschaft mit beschränkter Haftung/società a responsabilità limitata;
- (c) société en commandite par actions/ Kommanditaktiengesellschaft/società in accomandita per azioni.

(2) Other terms used in these Regulations shall be interpreted in accordance with Part IIIA of the Income Tax Act.

Income Tax
Income Tax (Interest and Royalties) (Switzerland)
Regulations 2006

2010-21
2006/070

Competent authority.

3. The competent authority for all purposes relating to the enforcement of these Regulations shall be the Commissioner of Income Tax.

Taxation of dividends.

4. Dividends paid by subsidiary companies to parent companies shall not be subject to taxation in Gibraltar where—

- (a) the parent company has held a direct minimum holding of 25 % of the capital of such a subsidiary;
- (b) one company is resident for tax purposes in Gibraltar and the other company is resident for tax purposes in Switzerland;
- (c) under any applicable agreement with third States neither company is resident for tax purposes in that third State; and
- (d) both companies are subject to corporation tax with no exemption applicable and both are in the form of a limited company.

Taxation of interest and royalty payments.

5. Subject to any provisions for the prevention of fraud or abuse in Gibraltar, interest and royalty payments made between associated companies or their permanent establishments shall not be subject to taxation in Gibraltar, where—

- (a) such companies are affiliated to each other by a direct minimum holding of 25 %, or are both held by a third company which has directly a minimum holding of 25 % both in the capital of the first company and in the capital of the second company;
- (b) one company is resident for tax purposes or has a permanent establishment in Gibraltar and the other company is resident for tax purposes or has a permanent establishment situated in Switzerland;
- (c) under any applicable agreements with third States none of the associated companies is resident for tax purposes in that other State and none of the permanent establishments is situated in that other State; and

2010-21

Income Tax

2006/070

**Income Tax (Interest and Royalties) (Switzerland)
Regulations 2006**

- (d) all the associated companies are subject to corporation tax with no exemption applicable in particular on interest and royalty payments and each are in the form of a limited company.