

# BREXIT IMPLICATIONS FOR PRIVATELY HELD COMPANIES WITH US SUBSIDIARIES



The UK/US double tax treaty allows privately held UK resident companies to benefit from a 0% withholding tax rate on dividends from its US subsidiaries in certain circumstances.

This benefit is only available where the UK company in receipt of the dividend is owned 95% directly or indirectly by seven or fewer persons who are “equivalent beneficiaries” (“EBs”). EBs are defined in the treaty as parties to the North American Free Trade Agreement (i.e. residents of Canada/USA/Mexico) or residents of a Member State of the European Community or of a European Economic Area state. As the UK is currently a European Union Member State, UK residents fall within this definition.

In the event that the UK leaves the European Union, privately held UK companies may not be able to benefit from a 0% withholding tax rate on dividends, but subject to review, may be able to access a reduced 5% treaty rate. It may still be possible to obtain a 0% rate via application to the US Competent Authorities, but this is likely to be a costly and time consuming process.

Given the latest delay to Brexit, this provides an opportunity for UK-US groups to appraise the practicalities of making dividend payments from US subsidiaries prior to the UK’s departure from the European Union.

The receipt of the dividend in the hands of the UK parent should be exempt from UK corporation tax.

Rawlinson & Hunter work closely with multinational groups on an array of projects, including profit repatriation into the UK. If you think that you may be impacted by the above, we would be happy to assist you in understanding the options available.

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