

Subsidiary Legislation made under s. 98(1).

**PARENT AND SUBSIDIARY COMPANY RULES 2008**

**(LN. 2008/083)**

*Commencement*      **13.11.2008**

Amending enactments	Relevant current provisions	Commencement date
None		

**EU Legislation/International Agreements involved:**

Directive 90/435/EEC

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**ARRANGEMENT OF REGULATIONS.**

Regulation

1. Title.
2. Interpretation.
3. Parent and Subsidiary Companies.
4. Corporation Tax.
5. Withholding Tax.
6. Revocation.

**2010-21**

**Income Tax**

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**Subsidiary  
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*In exercise of the powers conferred on him by section 98(1) of the Income Tax Act, and all other enabling powers, and in order to transpose Council Directive 90/435/EEC on the common system of taxation applicable to parent companies and subsidiaries of different Member States as amended from time to time, the Minister has made the following Rules—*

**Title.**

1. These Rules may be cited as the Parent and Subsidiary Company Rules 2008.

**Interpretation.**

2. (1) In these Rules—

“company of a Member State” means a company specified in—

- (a) Article 2 of Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States as amended from time to time and includes a company incorporated or registered in Gibraltar that satisfies the conditions set out in that Article 2; or
- (b) Article 15 of the Agreement between the EC 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;

“relevant participation” means an interest in the voting share capital of another body corporate equal to at least 15% of the total of such share capital until 31 December 2008, and 10% thereafter;

“share” means a share in the share capital of a company and shall include stock except where a distinction between shares and stock is expressed or implied.

- (2) Subject to sub-rule (3), for the purposes of these Rules a company shall be deemed to have an interest in the shares of a company if—

- (a) it holds that interest (other than as bare nominee or trust thereof) directly or indirectly or through a company or series of companies and whether such interest is legal, equitable or contractual; or

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- (b) by reason of any agreement or arrangement with another person, it has the right to acquire an interest in those shares or the right to enjoy a dividend or other benefit from those shares.

(3) A company shall not be deemed to have an interest in the shares of a company by reason of its holding those shares or an interest therein acting in a representative or financial capacity only, even though it may be entitled to remuneration for so acting or may have a charge or lien on those shares in respect of such remuneration.

**Parent and Subsidiary Companies.**

3. The provisions of these Rules shall apply to—

- (a) a parent company, being a company—
- (i) incorporated or registered in Gibraltar under the provisions of the Companies Act;
  - (ii) ordinarily resident in Gibraltar;
  - (iii) having a relevant participation in a company of a Member State;
- (b) a subsidiary company, being a company—
- (i) incorporated or registered in Gibraltar under the provisions of the Companies Act;
  - (ii) ordinarily resident in Gibraltar;
  - (iii) in which a company of a Member State has a relevant participation.

**Corporation Tax.**

4. A parent company shall not be liable to corporation or other taxation under the Act in respect of income from any relevant participation.

**Withholding Tax.**

5. The provisions of section 39(1) of the Act shall not apply to dividends paid by a subsidiary to its parent.

**Revocation.**

6. The Parent and Subsidiary Company Rules 2006 are revoked.