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COMPARISON OF EUROPEAN HOLDING COMPANY REGIMES

This analysis provides an indicative guide only and advice from appropriate country specialists should always be sought.
Particular attention should be given to the date at which the information is correct – shown under the country name at the top of each column.

	Austria	Belgium	Bulgaria	Croatia	Cyprus	Czech Rep	Denmark	Estonia	Finland
Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
Establishing HoldCo									
Are advanced rulings available?	Yes, with exceptions	Yes	No[1]	Yes[2]	In certain cases[3]	Yes, in limited areas[4]	Yes[5]	Yes[6]	Yes[7]
Are there restrictions on activities?	No[8]	No	No[9]	No	No	No	No	No	No
Are there substance requirements?	No	Yes[10]	No[11]	No[12]	No[13]	No[14]	To some extent[15]	No	No[16]
Is capital duty payable?	No	No[17]	No	No	Yes[18]	No	No	No	No
Is there a special tax regime for holding companies?	No	No	No	No	No	No	No	No	No
Is there CFC or equivalent legislation?	No[19]	No[20]	No	No	No	No[21]	Yes[22]	Yes[23]	Yes
Number of jurisdictions with active income tax treaties (minimum)	90	94	69	61	58	87	74	57	75
What is the corporate tax rate?	25%	33.99%[24]	10%	12%/18%[25]	12.5%[26]	19%	22%	0%/14%/20%[27]	20%
Is there a notional interest deduction or similar regime?	No	Yes[28]	No	No	Yes[29]	No	No	No	No

	Austria	Belgium	Bulgaria	Croatia	Cyprus	Czech Rep	Denmark	Estonia	Finland
Last updated	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018
Tax treatment of disposal of HoldCo									
Is any tax payable in HoldCo country on disposal of HoldCo shares by a non-resident corporate shareholder?	No, unless no protection under a tax treaty or shares in HoldCo can be attributed to the business of an Austrian PE	No	Yes[30]	No	No[31]	Yes[32]	Depends[33]	No[34]	Generally no[35]
Tax treatment of payments by HoldCo									
Dividends									
What is the rate of withholding tax on dividends paid to non-residents?									
– Non-treaty	25%/27.5%[37]	0%/5%/10%/15%/20%/30%[39]	5%	12%	0%	35%[44]	22%/27%[46]	0%/up to 7%[47]	20%
– Treaty	0% – 27.5%	0% – 20%[40]	0% – 5%	0%/5%/8%/10%	0%	0% – 15%[45]	0%–22%/27%	0%/up to7%	0% – 20%
– EU/EEA[36]	0%[38]	0%[41]	0%[42]	0%[43]	0%	0%	0%	0%/up to 7%	0%
Interest									
Are there restrictions on interest deductibility?	Yes[48]	Yes[49]	Yes[50]	Yes[51]	No	Yes[52]	Yes[53]	No	Yes[54]
Is interest on loans to acquire subsidiaries deductible against HoldCo's profits?	Yes[55]	Yes, for business purposes[56]	Yes[57]	Yes[58]	No[59]	No[60]	Yes[61]	Yes[62]	Generally yes[63]

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Last updated	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018
What is the rate of withholding tax on interest paid to non-residents?									
– Non-treaty	25%/27.5%[65]	0%/15%/30%[66]	10%	15%	0%	35%[69]	0%/22%[71]	0%[72]	0%[73]
– Treaty	0%-27.5%	0% – 25%	0% – 10%	0%/5%/8%/10%	0%	0% – 15%	0%	0%	0%
– EU/EEA[64]	0%	0%	0%[67]	0%[68]	0%	0%[70]	0%	0%	0%
Liquidation payments									
Is there withholding tax on liquidation payments?	No	Yes[74]	Yes[75]	Yes[76]	No[77]	Yes[78]	Yes/No[79]	No[80]	Generally no[81]
Taxation of HoldCo income									
Dividends									
How are dividends taxed?[82]	Exempt[83]	95% exempt[84]	Exempt/ taxable[85]	Exempt[86]	Exempt[87]	Exempt[88]	Varies[89]	Corporate income tax on gross distributed amount[90]	Exempt[91]
Does the foreign subsidiary have to meet any substance requirements for any exemption in HoldCo jurisdiction to apply?[92]	No[93]	No	No[94]	No	No	No[95]	No - but Danish CFC taxation rules may apply[96]	Yes[97]	Generally no[98]
Does the foreign subsidiary have to pay tax in its own jurisdiction for any exemption in HoldCo jurisdiction to apply?[99]	No[100]	Yes, similar to Belgian corporate income tax[101]	No[102]	No	No	Yes[103]	Depends[104]	Yes/No[105]	No[106]

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	Austria	Belgium	Bulgaria	Croatia	Cyprus	Czech Rep	Denmark	Estonia	Finland
Last updated	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018
What is the required holding period?	N/A / 1 year continuous ownership[107]	1 year	N/A[108]	N/A	N/A	1 year	N/A	N/A	N/A[109]
What is the required percentage ownership?	N/A / 10%[110]	10% or acquisition cost of at least EUR 2.5 million[111]	N/A[112]	N/A	N/A	10%	Varies[113]	10%	0% – 25%[114]
Gains on disposal of participations									
How are gains on the sale of a subsidiary taxed?	Exempt, with option to tax (for foreign participations)[115]	Exempt[116]	Taxable at 10%[117]	Taxable at standard corporate income tax rate of 12%/18%[118]	Exempt[119]	Exempt/ taxable[120]	Depends on nature of participation[121]	Corporate income tax on profit distribution	Generally exempt[122]
Are capital losses deductible?	No, unless the option to tax was exercised (for foreign participations)[123]	No[124]	Yes[125]	Yes	No	No[126]	Depends on nature of participation[127]	N/A[128]	Generally no[129]
Is relief available for the write-down in value of subsidiaries?	No, unless the option to tax was exercised (for foreign participations)[130]	No[131]	No	No[132]	No	No[133]	No	N/A[134]	No
Does the foreign subsidiary have to meet any substance requirements for any exemption in HoldCo jurisdiction to apply?[135]	No[136]	No	No[137]	No	No	No[138]	No[139]	No	Yes[140]

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	Austria	Belgium	Bulgaria	Croatia	Cyprus	Czech Rep	Denmark	Estonia	Finland
Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
Does the foreign subsidiary have to pay tax in its own jurisdiction for any exemption in HoldCo jurisdiction to apply?[141]	No[142]	Yes, similar to Belgian corporate income tax[143]	No[144]	No	No	Yes[145]	Depends[146]	No	Generally no[147]
What is the required holding period?	1 year continuous ownership prior to disposal (for foreign participations)	1 year[148]	N/A[149]	N/A	N/A	1 year	N/A	N/A	1 year[150]
What is the required percentage ownership?	10% (for foreign participations)	N/A[151]	N/A[152]	N/A	N/A	10%	Varies[153]	N/A	10% of the share capital[154]
Is joint taxation for groups available?	Yes	No[155]	No	No	No[156]	No	Yes[157]	No	No[158]

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	France	Germany	Gibraltar	Greece	Hungary	Ireland	Italy	Latvia
Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
Establishing HoldCo								
Are advanced rulings available?	No	Yes[159]	Yes	No	Yes	Yes[160]	Yes	Yes[161]
Are there restrictions on activities?	No	No	No	No	Generally no	No	No	No
Are there substance requirements?	No[162]	No	No	Yes[163]	No	No[164]	No[165]	No[166]
Is capital duty payable?	No	No	No[167]	Not on formation, only on capital increases[168]	No[169]	No	EUR 200[170]	No
Is there a special tax regime for holding companies?	No	No	No	No[171]	No	Yes[172]	No	No
Is there CFC or equivalent legislation?	Yes	Yes	No	Yes[173]	Yes[174]	No[175]	Yes[176]	No
Number of jurisdictions with active income tax treaties (minimum)	124	97	None[177]	57	81	74	96	61
What is the corporate tax rate?	34.43%[178]	Generally, the overall rate is 30% - 33% in major cities[179]	10%[180]	29%	9%[181]	12.5%/25%[182]	24% + regional tax at 3.9% (ordinary rate)[183]	0%/20%[184]
Is there a notional interest deduction or similar regime?	No	No	No	No	No	No	Yes[185]	No

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Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
Tax treatment of disposal of HoldCo								
Is any tax payable in HoldCo country on disposal of HoldCo shares by a non-resident corporate shareholder?	Depends. Registration duties also payable[186]	Generally, 100% of gain exempt, but most tax treaties allocate taxing rights to shareholder's country of residence[187]	No[188]	Exempt under domestic law provided non-resident corporate shareholder does not have a Greek PE[189]	Generally no[190]	No[191]	Yes, subject to exemption under tax treaty[192]	No, other than for real estate companies[193]
Tax treatment of payments by HoldCo								
<u>Dividends</u>								
What is the rate of withholding tax on dividends paid to non-residents?								
– Non-treaty	30%[195]	26.375%/(15.825% on application)	0%[198]	15%[199]	0%[201]	20%[202]	26%[203]	0%/20%[205]
– Treaty	0% – 20%	0% – 26.375%/ (max. 15.825% on application)[196]	N/A	0% – 15%	0%	0%/5%/10%/ 15%	5% – 20%	0%
– EU/EEA[194]	0%	0%[197]	0%	0%[200]	0%	0%	0%/1.2%[204]	0%
<u>Interest</u>								
Are there restrictions on interest deductibility?	Yes[206]	Yes[207]	Yes[208]	Yes[209]	3:1[210]	No, subject to certain exceptions[211]	Yes[212]	Yes[213]
Is interest on loans to acquire subsidiaries deductible against HoldCo's profits?	Yes[214]	Yes	Yes[215]	No[216]	Yes[217]	Yes[218]	Yes, subject to some conditions[219]	Yes, for business purposes

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Last updated	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018
What is the rate of withholding tax on interest paid to non-residents?								
– Non-treaty	0%[221]	0%[222]	0%[223]	15%	0%	20%[226]	26%[227]	0%/20%[228]
– Treaty	0%	0%	N/A	0% – 15%	0%[225]	0% – 15%	0% – 15%	0%
– EU/EEA[220]	0%	0%	0%	0%[224]	0%	0%	0%	0%
Liquidation payments								
Is there withholding tax on liquidation payments?	Yes[229]	Yes	No	Yes[230]	No	Generally no	Yes[231]	No[232]
Taxation of HoldCo income								
Dividends								
How are dividends taxed?[233]	95% exempt	Generally 95% exempt[234]	Exempt	Generally exempt[235]	Exempt[236]	Exempt (domestic dividends)/taxable with credit for foreign tax[237]	95% exempt[238]	Exempt/subject to corporate income tax on distributed part of profit[239]
Does the foreign subsidiary have to meet any substance requirements for any exemption in HoldCo jurisdiction to apply?[240]	No[241]	Yes[242]	No	No[243]	Generally no; the subsidiary should not be regarded as a CFC	Yes[244]	No	No[245]
Does the foreign subsidiary have to pay tax in its own jurisdiction for any exemption in HoldCo jurisdiction to apply?[246]	No[247]	No but CFC rules may apply[248]	No	Yes[249]	No	No	No	No[250]

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	France	Germany	Gibraltar	Greece	Hungary	Ireland	Italy	Latvia
Last updated	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018
What is the required holding period?	2 years[251]	Generally, no holding period is required[252]	N/A	24 months (uninterrupted)[253]	N/A	N/A	N/A	N/A
What is the required percentage ownership?	5%[254]	Corporate income tax: 10%/municipal trade tax: 15%. Both may be reduced under a treaty[255]	N/A	10%	N/A	Generally 5%[256]	N/A	N/A
Gains on disposal of participations								
How are gains on the sale of a subsidiary taxed?	Long-term capital gains 88% exempt[257]	Generally 95% exempt[258]	Exempt[259]	As normal business income[260]	Exempt provided certain conditions are satisfied[261]	Exempt for subsidiaries resident in EU or treaty countries; otherwise taxable[262]	95% exempt if participation exemption applies; otherwise fully taxable[263]	Exempt/subject to corporate income tax on distributed part of profit[264]
Are capital losses deductible?	Not for shares benefitting from the 88% exemption on long-term capital gains	No	No	Yes[265]	Not if gains are exempt	Yes, but only if the CGT participation exemption does not apply	No. if the participation is eligible for the participation exemption regime[266]	N/A[267]
Is relief available for the write-down in value of subsidiaries?	Not for shares benefitting from the 88% exemption on long-term capital gains	No	No	No	Not if gains are exempt	Only if the CGT participation exemption does not apply[268]	No	N/A[269]
Does the foreign subsidiary have to meet any substance requirements for any exemption in HoldCo jurisdiction to apply?[270]	No[271]	Yes[272]	No	No	Generally no; the subsidiary should not be regarded as a CFC	Yes[273]	No[274]	No

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Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
Does the foreign subsidiary have to pay tax in its own jurisdiction for any exemption in HoldCo jurisdiction to apply?[275]	No	No	No	No	No	No	No[276]	A public EU/EEA company must be tax resident in the country of operation
What is the required holding period?	2 years[277]	N/A	N/A	N/A	1 year	12 months[278]	12 months[279]	36 months
What is the required percentage ownership?	5%[280]	N/A	N/A	N/A	10%[281]	5%	N/A	N/A
Is joint taxation for groups available?	Yes	Yes	No	No	No	No[282]	Yes	No

	Lithuania	Luxembourg	Malta	Netherlands	Norway	Poland	Portugal	Romania
Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
Establishing HoldCo								
Are advanced rulings available?	Yes	Yes	Yes, but not necessary	Yes, but not necessary[283]	Yes[284]	Yes[285]	Yes	Yes[286]
Are there restrictions on activities?	No	No[287]	No	No	No	No[288]	No	No
Are there substance requirements?	No[289]	No[290]	No[291]	Generally no; yes only for financial service entities[292]	No	No[293]	No	No
Is capital duty payable?	No	No[294]	No	No	No	0.5% on the face value of shares[295]	No	No
Is there a special tax regime for holding companies?	No	No[296]	No[297]	No	No	No	No[298]	No[299]
Is there CFC or equivalent legislation?	Yes	No	No	No[300]	Yes	Yes[301]	Yes	Yes[302]
Number of jurisdictions with active income tax treaties (minimum)	54	80	73	91	87	82	70	88
What is the corporate tax rate?	0%/5%/15%[303]	18% (amounting to 19.26% when the 7% unemployment fund surcharge is added) + 6.75% Municipal Business Tax[304]	35%[305]	25%[306]	23%[307]	15%/19%[308]	31.5%[309]	16%[310]
Is there a notional interest deduction or similar regime?	No		Yes[311]	No	No	No	Yes[312]	No

	Lithuania	Luxembourg	Malta	Netherlands	Norway	Poland	Portugal	Romania
Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
Tax treatment of disposal of HoldCo								
Is any tax payable in HoldCo country on disposal of HoldCo shares by a non-resident corporate shareholder?	No	Generally no, some exceptions[313]	No[314]	Generally no[315]	No	Capital gains may be exempt under a tax treaty. 1% transfer tax on fair market value of shares payable by purchaser[316]	Generally no[317]	Depends[318]
Tax treatment of payments by HoldCo								
Dividends								
What is the rate of WHT on dividends paid to non-residents?								
– Non-treaty	0%/15%[320]	0%[321]	0%[323]	Coop: potentially 0%/ BV: 15%[325]	25%[326]	19%	0%/25%/35%[329]	5%
– Treaty	0%/5% – 15%	0%	0%	0% – 15%	0% – 25%	0% – 15%	0% – 15%	0% – 20%
– EU/EEA[319]	0%/5% – 15%	0%[322]	0%[324]	0% – 15%	0%[327]	0%[328]	0%[330]	0%/5%[331]
Interest								
Are there restrictions on interest deductibility?	Yes[332]	Yes/No[333]	No[334]	Yes[335]	Yes[336]	Yes[337]	Yes[338]	Yes[339]
Is interest on loans to acquire subsidiaries deductible against HoldCo's profits?	Yes[340]	Yes[341]	Yes[342]	Yes[343]	Yes[344]	Uncertain[345]	Yes[346]	No[347]

	Lithuania	Luxembourg	Malta	Netherlands	Norway	Poland	Portugal	Romania
Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
What is the rate of withholding tax on interest paid to non-residents? **– Non-treaty** **– Treaty** **– EU/EEA[348]**	10%[349] 0% 0%	0% 0% 0%[350]	0%[351] 0% 0%	0% 0% 0%	0%[352] 0% 0%	20% 0% – 15% 0%[353]	0%/25%/35%[354] 5% – 15% 0%[355]	16%/50%[356] 0% – 25%[357] 0%/16%[358]
Liquidation payments								
Is there withholding tax on liquidation payments?	No[359]	No	No	No[360]	No[361]	Yes[362]	No[363]	Yes[364]
Taxation of HoldCo income								
Dividends								
How are dividends taxed?[365]	Exempt/ taxable with credit for foreign tax[366]	Exempt / N/A[367]	Exempt/ taxable with credit for foreign tax	Exempt[368]	Exempt or 97% exempt (EEA dividends)/ 97% exempt or fully taxable (non-EEA dividends)[369]	Exempt/ taxable with credit for foreign tax[370]	Exempt[371]	Exempt/5% profit tax[372]
Does the foreign subsidiary have to meet any substance requirements for any exemption in HoldCo jurisdiction to apply?[373]	Yes[374]	No	No	No[375]	Depends[376]	No[377]	Generally no[378]	No[379]
Does the foreign subsidiary have to pay tax in its own jurisdiction for any exemption in HoldCo jurisdiction to apply?[380]	Yes, where CFC rules are applicable	9%[381]	No[382]	No[383]	Depends[384]	No[385]	Depends[386]	No

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	Lithuania	Luxembourg	Malta	Netherlands	Norway	Poland	Portugal	Romania
Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
What is the required holding period?	12 months[387]	1 year or commitment to hold for 1 year	N/A[388]	N/A	EEA countries – N/A/ Non-EEA countries – 2 years	2 years	12 months	1 year[389]
What is the required percentage ownership?	10%[390]	10% or acquisition cost of at least EUR 1.2 million	10% or acquisition cost of at least EUR 1.2 million (or other criteria)[391]	5%	EEA countries – N/A/ Non-EEA countries – 10%[392]	10%/25%/ 75%[393]	10%[394]	10%[395]
Gains on disposal of participations								
How are gains on the sale of a subsidiary taxed?	Exempt/15%[396]	Exempt / N/A[397]	Exempt/ Taxable with credit for foreign tax	Exempt[398]	Generally exempt (EEA)/ exempt or taxable, depending on the jurisdiction, percentage shareholding and period held (non-EEA)[399]	Taxable at standard corporate income tax rate	Exempt[400]	Exempt/Subject to 16% profit tax, with tax credit[401]
Are capital losses deductible?	Yes[402]	Yes[403]	Yes, but only against capital gains	Only liquidation losses, in specific circumstances	Yes, as a general rule, to the extent gains are taxable[404]	Yes[405]	No[406]	No[407]
Is relief available for the write-down in value of subsidiaries?	No	Yes[408]	No	No	No	No	No	No
Does the foreign subsidiary have to meet any substance requirements for any exemption in HoldCo jurisdiction to apply?[409]	No	No	No	No[410]	Depends[411]	No[412]	Generally no[413]	No[414]

	Lithuania	Luxembourg	Malta	Netherlands	Norway	Poland	Portugal	Romania
Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
Does the foreign subsidiary have to pay tax in its own jurisdiction for any exemption in HoldCo jurisdiction to apply?[415]	No[416]	9%[417]	No	No[418]	Depends[419]	No[420]	No[421]	No
What is the required holding period?	2 years (3 years for a reorganisation)[422]	1 year or commitment to hold for 1 year	N/A[423]	N/A	EEA countries – N/A / Non-EEA countries – 2 years[424]	N/A	12 months	1 year
What is the required percentage ownership?	More than 10% of voting rights	10% or acquisition cost of at least EUR 6 million	10% or acquisition cost of at least EUR 1.2 million (or other criteria)[425]	5%	EEA countries – N/A / Non-EEA countries – 10%[426]	N/A	10%[427]	10%
Is joint taxation for groups available?	No[428]	Yes[429]	No[430]	Yes[431]	Yes[432]	Yes[433]	Yes	No[434]

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	Slovakia	Slovenia	South Africa	Spain	Sweden	Switzerland	Turkey	UK
Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
Establishing HoldCo								
Are advanced rulings available?	Yes[435]	Yes[436]	Yes[437]	Yes, but not necessary	Yes, but not necessary	Yes, not necessary but advisable	Yes	No[438]
Are there restrictions on activities?	No	No	Yes[439]	No[440]	No	Yes[441]	No[442]	No
Are there substance requirements?	No	No	No	Yes[443]	No	No	No	No
Is capital duty payable?	No	No	No	Increase of share capital is exempt	No	1%[444]	Yes[445]	No
Is there a special tax regime for holding companies?	No	No	Yes[446]	Yes[447]	No	Not on Federal level; only on cantonal and communal levels[448]	Yes[449]	No
Is there CFC or equivalent legislation?	No[450]	No[451]	No[452]	Yes	Yes	No	Yes	Yes[453]
Number of jurisdictions with active income tax treaties (minimum)	68	58	78	93	89	107	83	130
What is the corporate tax rate?	21%	19%[454]	28%[455]	25%	22%	7.8%[456]	20%[457]	19%[458]
Is there a notional interest deduction or similar regime?	No	No	No	No[459]	No	No[460]	Yes[461]	

	Slovakia	Slovenia	South Africa	Spain	Sweden	Switzerland	Turkey	UK
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Tax treatment of disposal of HoldCo								
Is any tax payable in HoldCo country on disposal of HoldCo shares by a non-resident corporate shareholder?	Yes[462]	No	No[463]	Generally no[464]	No	No	Generally no[465]	No
Tax treatment of payments by HoldCo								
Dividends								
What is the rate of withholding tax on dividends paid to non-residents?								
– Non-treaty	0%/7%/35%[467]	15%[468]	0%[469]	0%/19%[470]	0% – 30%[473]	35%	15%	0%
– Treaty	0%/7% (or lower treaty rate)	5% – 15%	0%	0% – 18%[471]	0% – 30%	0% – 15%	5% – 20%[476]	0%
– EU/EEA[466]	0%/7%/35%	0%/15%	0%	0%[472]	0%[474]	0%[475]	5% – 20%[477]	0%
Interest								
Are there restrictions on interest deductibility?	Yes[478]	Yes[479]	No[480]	Yes[481]	Yes[482]	Yes[483]	Yes[484]	Yes[485]
Is interest on loans to acquire subsidiaries deductible against HoldCo's profits?	Debatable. No specific provisions exist in tax legislation[486]	Yes[487]	No[488]	Yes[489]	Depends[490]	Yes	Yes, but only for business purposes[491]	Yes

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	Slovakia	Slovenia	South Africa	Spain	Sweden	Switzerland	Turkey	UK
Last updated	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018
What is the rate of withholding tax on interest paid to non-residents?								
– Non-treaty	19%/35%[493]	15%	0%[495]	19%	0%[498]	0%[499]	0% – 10%[500]	20%
– Treaty	0% – 15%	0% – 15%	0%	0% – 15%[496]	0%	0%	5% – 15%	0% – 20%
– EU/EEA[492]	0%[494]	0%/15%	0%	0%[497]	0%	0%	0% – 15%	0%
Liquidation payments								
Is there withholding tax on liquidation payments?	Depends[501]	Yes[502]	No[503]	Yes[504]	Yes[505]	Yes[506]	Yes[507]	No
Taxation of HoldCo income								
Dividends								
How are dividends taxed?[508]	Exempt/35%[509]	Exempt[510]	Generally exempt[511]	Exempt if certain requirements are met	Depends[512]	Exempt[513]	Exempt/taxable with credit for foreign tax[514]	Taxable, subject to exemption[515]
Does the foreign subsidiary have to meet any substance requirements for any exemption in HoldCo jurisdiction to apply?[516]	No	Yes[517]	No[518]	No[519]	No[520]	No	No[521]	No
Does the foreign subsidiary have to pay tax in its own jurisdiction for any exemption in HoldCo jurisdiction to apply?[522]	No	No	No	Yes[523]	Yes[524]	No	Yes[525]	No

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	Slovakia	Slovenia	South Africa	Spain	Sweden	Switzerland	Turkey	UK
Last updated	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018	January 2018
What is the required holding period?	N/A	N/A	N/A	1 year before or after dividends become receivable[526]	N/A / 1 year[527]	N/A	1 year	N/A
What is the required percentage ownership?	N/A	N/A	10%[528]	5% or acquisition cost greater than EUR 20 million	N/A / 10% of votes / 10% of share capital[529]	10% or market value of CHF 1 million	10% of paid-in capital	N/A[530]
Gains on disposal of participations								
How are gains on the sale of a subsidiary taxed?	Exempt/21%, subject to treaty relief[531]	50% exempt/ 50% taxable at standard corporate income tax rate of 17%[532]	Exempt[533]	Exempt provided that certain requirements are met	Depends[534]	Exempt[535]	Exempt provided certain conditions are satisfied[536]	Exempt[537]
Are capital losses deductible?	No[538]	Yes (50%)[539]	No	Yes[540]	No[541]	Yes[542]	No[543]	Exempt[544]
Is relief available for the write-down in value of subsidiaries?	No	No[545]	No	No[546]	No[547]	Yes[548]	No	No[549]
Does the foreign subsidiary have to meet any substance requirements for any exemption in HoldCo jurisdiction to apply?[550]	No	No	No[551]	Yes[552]	No[553]	No	No	Yes[554]
Does the foreign subsidiary have to pay tax in its own jurisdiction for any exemption in HoldCo jurisdiction to apply?[555]	No	No[556]	No	Yes[557]	Yes[558]	No	No	No

	Slovakia	Slovenia	South Africa	Spain	Sweden	Switzerland	Turkey	UK
Last updated	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**	**January 2018**
What is the required holding period?	24 months	6 months	N/A	1 year[559]	N/A / 1 year[560]	12 months	2 years[561]	12 months[562]
What is the required percentage ownership?	10%	8%	10%	5% or acquisition cost greater than EUR 20 million	N/A / 10% of votes[563]	10%	N/A / 10%[564]	10%
Is joint taxation for groups available?	No	No	No	Yes	No[565]	No	No	No[566]

Notes

[1] **BUL:** The tax authorities issue written opinions but these are not binding.
[2] **CRO:** Advance transfer pricing agreements are available from 2017 onwards.
[3] **CYP:** A fee of EUR 1,000 is payable to the tax authorities by the taxpayer when applying for a ruling. Where the taxpayer requests the issue of a ruling to be expedited, the fee increases to EUR 2,000 and the tax authorities must issue the ruling within 21 working days from the date the application is submitted.
[4] **CZ:** From 2018, it may be possible to obtain an advance ruling on the allocation of profits to a permanent establishment (PE).
[5] **DEN:** Rulings are expected to take approximately 3-6 months to obtain.
[6] **EST:** Rulings in relation to transfer pricing are not available.
[7] **FIN:** Advice should be sought in advance from the Finnish Tax Administration on structures concerning debt pushdowns. See note to ""Interest: Are there restrictions on interest deductibility?".
[8] **AUS:** Banking and similar activities require a licence.
[9] **BUL:** Banking, insurance and similar activities require a licence.
[10] **BEL:** The real seat of management of the holding company must be located in Belgium.
[11] **BUL:** Minimum share capital requirements exist for both limited and joint stock companies but there are no specific tax requirements regarding substance.
[12] **CRO:** General substance over form principles enacted in 2016 disallow the application of any arrangements that have tax avoidance as their main purpose.
[13] **CYP:** Although there are no substance requirements in the legislation, following the BEPS developments, the Cyprus Tax Authorities have strengthened the criteria for determining whether a company is a Cyprus tax resident and in that respect the procedure of issuing tax residency certificates has also changed towards a substance-oriented approach.
[14] **CZ:** No specific restrictions but where there is erosion of the tax base (e.g. through payment of service fees or interest) general anti-abuse rules (substance over form, abuse-of-law doctrine) might be triggered.
[15] **DEN:** As a starting point, a Danish company is tax resident in Denmark upon registration. However in many of the tax treaties entered into by Denmark, the right to tax the company is given to the country in which the company's effective place of management is located. A foreign company can become fully tax liable in Denmark if its effective place of management is in Denmark.
Denmark also has anti-avoidance rules according to which Danish withholding taxes can apply where dividends flow through a Danish company, which cannot be considered the beneficial owner of such dividends. It should also be considered whether any substance in a Danish holding company is required by other jurisdictions (e.g. for tax treaty protection, under local tax legislation etc.).
[16] **FIN:** A company must engage in business activities to qualify for e.g. the capital gains participation exemption or be eligible for group contribution. Active business status normally requires a certain level of substance. The Finnish Revenue are actively looking at business purpose and have recently been more aggressive in their approach with respect to the substance requirements and allocation especially regarding financing structures. See note to "Interest: Are there restrictions on interest deductibility?".
[17] **BEL:** Capital contributions are subject to a fixed fee of EUR 50. An exception may apply in the case of "mixed" contributions when real estate is contributed together with debt.
[18] **CYP:** Capital duty is payable on authorised share capital at a flat rate of EUR 105 (initially and at EUR 40 on any subsequent increase), plus 0.6% of the nominal value of authorised share capital, and on issues of share capital at a flat rate of EUR 20.
[19] **AUS:** No CFC legislation, but in the case of cross-border portfolio dividends from EU countries or countries that have concluded a comprehensive administrative assistance agreement with Austria, there is a switch-over from the exemption to the credit method if the foreign subsidiary is either subject to an average corporate income tax burden of less than 15% or the applicable foreign nominal corporate income tax rate is below 15% or a comprehensive tax exemption applies (a participation exemption in the foreign state is however harmless). In the case of other (qualified) participations the switch-over rule applies if the foreign subsidiary generates passive income and is subject to an average corporate income tax burden of less than 15%.
[20] **BEL:** Currently no specific CFC legislation, but anti-avoidance measures may achieve the same or similar effect.
From tax year 2020 (taxable periods starting on or after 1 January 2019) CFC rules will apply in Belgium. A Belgian company will be taxed on the "non-distributed profits" of a foreign company that is considered a CFC where such profits are arising from "non-genuine arrangements" which have been put in place for the essential purpose of obtaining a tax advantage. A control test and a taxation test will apply to determine whether a foreign company is a CFC. The taxation test will be met where the foreign company is either not subject to income tax or subject to income tax equal to less than half of the tax that would be due on taxable income computed according to applicable Belgian tax rules, if the CFC were resident in Belgium. Profits of a foreign establishment meeting the CFC taxation test will be allocated to the Belgian head office.
[21] **CZ:** The EU Anti-Avoidance Directives (ATAD I & II) are planned to be implemented with effect from 1 January 2019, which would result in amendments to the current rules. However, draft legislation has not yet been introduced.

[22] **DEN:** Denmark has CFC legislation in accordance with which a Danish resident company or a Danish PE of a foreign company may be subject to tax on the total income of a subsidiary or foreign PE of a Danish company if: i) the subsidiary is controlled directly or indirectly by the Danish resident company/Danish PE; ii) the CFC income of the subsidiary constitutes more than one-half of the subsidiary's taxable income and iii) the subsidiary's financial assets on average constitute more than 10% of its total assets in the income year.
[23] **EST:** Applicable only to individuals.
[24] **BEL:** 33% standard rate plus a 3% surcharge. From the 2019 tax year (taxable periods starting on or after 1 January 2018) the standard rate will decrease to 29.58%. The standard rate will be further reduced to 25% with effect from the 2021 tax year (taxable periods starting on or after 1 January 2020).
[25] **CRO:** The standard corporate income tax rate is reduced to 18% (from 20%) from 1 January 2017. A 12% rate applies to taxpayers with annual income of less than HRK 3 million.
[26] **CYP:** Tax legislation offers tax benefits by exempting profits on the disposal of investments and dividends (subject to certain conditions), allowing group relief for losses, granting tax credits for foreign tax suffered and exempting profits from overseas PEs.
[27] **EST:** Corporate profits are taxed only when distributed as dividends. If no profits are distributed, the rate is 0%. If profits are distributed, the effective rate is 20%. A lower 14% corporate income tax rate is available on regularly distributed taxable profits (which do not exceed the average taxable profits distributed over the preceding three years). 2018 is the first year to be included in the three-year average calculation, with the reduced rate being gradually phased in from 2019 and fully applicable from 2021.
[28] **BEL:** The Belgian notional interest deduction (NID) is calculated based on the Belgian GAAP equity at the end of the previous taxable period, adjusted by excluding certain items such as own shares, shareholdings benefiting from the dividend received deduction and assets not producing regular income. Any changes to the NID equity (e.g. increases or decreases in capital) during the taxable period should be taken into account proportionately from the month following the month in which they take place. For tax year 2019 (taxable periods starting on or after 1 January 2018) the NID rate will be 0.746% for MNEs and 1.246% for SMEs. Excess NID cannot be carried forward to subsequent taxable periods.
With effect from tax year 2019, NID will only be granted for incremental equity by limiting the NID equity to 1/5 of the positive difference between the company's adjusted Belgian GAAP equity at the end of the taxable period and its adjusted Belgian GAAP equity at the end of the fifth previous taxable period. In addition, the utilisation of some tax attributes, including the current year NID, will be limited to EUR 1 million plus 70% of the taxable base.
[29] **CYP:** Equity introduced to a company as from 1 January 2015 (new equity) in the form of paid-up share capital or share premium is eligible for an annual notional interest deduction (NID). The NID is calculated as a percentage (reference rate) on the new equity. The relevant reference rate is the yield of the 10-year government bond (as at 31 December of the prior tax year) of the country where the funds are employed in the business of the company, plus a 3% premium (subject to a minimum rate which is the yield of the 10-year Cyprus government bond as at the same date, plus a 3% premium). NID is restricted to 80% of the taxable profit derived from assets/activities financed by the new equity.
[30] **BUL:** 10% domestic withholding tax but can be reduced in accordance with the provisions of an applicable double tax treaty.
[31] **CYP:** Unless the Cyprus HoldCo is not listed on a recognised stock exchange and directly or indirectly owns immovable property situated in Cyprus at the time of the disposal, in which case capital gains tax is payable.
[32] **CZ:** The sale of shares of a company with a registered seat in the Czech Republic is subject to Czech income tax unless determined otherwise by the relevant double tax treaty or national legislation. Some treaties enable taxation on the sale of investments in companies in the Czech Republic either for all companies (the treaty with Germany) or only for real estate companies, i.e. companies whose major part of assets consists of immovable assets (e.g. the treaty with France). If the seller meets the criteria given by EC Parent-Subsidiary Directive as mentioned in the Czech legislation (10% ownership for at least one year), the sale of shares is tax exempt (exemption will not apply if either the parent or subsidiary company are generally exempt from corporate income tax, or the statutory corporate income tax is zero).
[33] **DEN:** A sale of shares to a third party solely for cash should not trigger any tax liability. However, as a result of Danish anti-avoidance rules, share sales to related parties (broadly defined) and holding companies without business activity may be treated as dividends subject to Danish withholding taxes where the remuneration consists of a combination of cash and shares or cash only. The transfer may trigger withholding tax at up to 27% on the deemed dividend, unless the transferring company is entitled to receive dividends from its subsidiary without Danish withholding taxes. The 27% rate can potentially be lowered to 22% by filing a reclaim application with the Danish tax authorities. Exceptions to the tax charge may apply under certain circumstances. The distributing company has an obligation to withhold 27% of the dividends distributed or deemed and the receiving company must file an application with the Danish tax authorities to recover the "excess" dividend tax withheld.
[34] **EST:** Unless HoldCo is deemed to be a real estate company.
[35] **FIN:** Capital gains arising from a sale of shares in HoldCo by a non-resident shareholder are not taxed in Finland unless HoldCo is a real estate/housing company, or more than 50% of its assets comprise real estate or immovable property, or the shareholder has a permanent establishment (PE) in Finland, in which case a non-resident corporate shareholder would pay tax at 20% on the gain unless the participation exemption applies. Finland's right to levy taxes on capital gains arising from a sale of shares in a real estate company may be restricted under the terms of a relevant tax treaty. Finnish transfer tax of 1.6% (shares in other than real estate or housing companies) or 2% (shares in real estate or housing companies) is generally payable by the transferee on a purchase of shares. The transfer tax is not payable if both the transferor and the transferee are non-resident and the company whose shares are sold is not a real estate or housing company.

[36] **EU/EEA:** In accordance with the terms of the EC Parent-Subsidiary Directive (PSD), distributions of profits (other than on a liquidation) to a parent company in one Member State by a subsidiary in another Member State are generally exempt from withholding tax provided a minimum 10% shareholding requirement is met. Member States have some flexibility over the implementation of the Directive – see additional individual country notes for country specific requirements.
A binding mandatory general antiabuse rule (GAAR) in the PSD requires Member States to deny the dividend withholding tax exemption under the PSD in cases of tax avoidance – see additional individual country notes for country specific requirements.
[37] **AUS:** Generally a withholding tax rate of 27.5% applies to dividends paid to a non-resident shareholder. This may be reduced to 25% if the beneficial owner of the dividends is a corporation.
[38] **AUS:** An exemption from withholding tax under the EC Parent-Subsidiary Directive applies where the shareholder has held a 10% participation for at least one year. In addition, a certificate of residence and a declaration are required from the recipient of the dividends, stating that the recipient does not generate only passive income and has its own staff and facilities.
[39] **BEL:** Non-treaty rate of 0% applies only in very specific cases. In certain circumstances, dividends distributed to both residents and non-residents may also trigger liability for the 5.15% fairness tax. A decision from the Constitutional Court on whether to annul the fairness tax is expected early in 2018. A pre-draft bill to abolish the tax is currently being discussed within the government.
With effect from 1 January 2018, reductions of capital and reimbursements of share premium and profit shares (considered fiscal capital) are proportionally treated as dividend distributions, based on a formula taking into account the company's entire equity.
[40] **BEL:** Dividends are exempt from withholding tax based on domestic law if paid to a parent company located in a country with which Belgium has a tax treaty which includes an appropriate exchange of information clause. The exemption is available under similar conditions to those of the EC Parent-Subsidiary Directive (and subject to certain formalities). A specific anti-abuse rule has been introduced to refuse the dividend withholding tax exemption in case of abuse (as per the amended EC Parent-Subsidiary Directive). With effect from 1 January 2018, dividend distributions to treaty and EEA corporate shareholders with a stake in the Belgian company's capital of less than 10% but with an acquisition value of at least EUR 2.5 million are exempt from withholding tax; previously, the withholding tax rate was 1.6995%.
[41] **BEL:** With effect from 1 January 2018, dividend distributions to treaty and EEA corporate shareholders with a stake in the Belgian company's capital of less than 10% but with an acquisition value of at least EUR 2.5 million are exempt from withholding tax; previously, the withholding tax rate was 1.6995%.
[42] **BUL:** No minimum shareholding, holding period or legal form are required for legal entities which are EU/EEA tax residents to benefit from the exemption.
[43] **CRO:** To qualify for the 0% withholding tax rate on dividends paid to EU/EEA resident shareholders requires a minimum direct 10% shareholding in the payer's capital and a minimum holding period of two years.
[44] **CZ:** 35% rate applies to payments derived by the residents of jurisdictions with whom the Czech Republic has not concluded a tax information exchange agreement.
[45] **CZ:** Outbound dividends paid to Switzerland, Norway and Iceland are tax exempt when conditions similar to those in the EC Parent-Subsidiary Directive are met.
[46] **DEN:** No withholding tax is levied where: i) the shareholder is a company holding at least 10% of the share capital; ii) the Danish taxation right is reduced under a tax treaty or the distribution falls within the scope of the EC Parent-Subsidiary Directive; iii) the shareholder is the beneficial owner and iv) the Danish general anti-avoidance rule (GAAR) does not apply. The Danish GAAR may apply where there is an abuse of a tax treaty or EC directives. Additionally, it may not be beneficial to use Denmark as a "conduit country" as Danish dividend tax at up to 27% (which can potentially be reduced from 27% to 22% by filing a reclaim application with the Danish tax authorities) may be imposed on dividends if: i) the Danish company is not the beneficial owner of dividends received directly or indirectly on subsidiary or group shares and ii) taxation of the dividend paid on through Denmark is not eliminated under the EC Parent-Subsidiary Directive.
[47] **EST:** Estonia does not impose withholding tax on dividends payable to legal entities. Profits (including dividends received and capital gains) are taxed only when distributed. Corporate income tax at 20% (or 14%) of the gross distribution (20/80 or 14/86 of the net dividend) is payable by the payer of the dividend. The 7% withholding tax rate applies to dividends that are subject to the reduced corporate income tax rate of 14% (subject to treaty limitations) and distributed to natural persons.
[48] **AUS:** Interest paid on intra-group loans is not deductible if the recipient company is either not taxed on the income or subject to a tax rate of less than 10% or if the overall tax burden is lower than 10%, including tax refunds (also those granted to shareholders) leading to a tax burden of less than 10%. There are no formal thin cap rules but debt financing by shareholders must comply with the arm's length principle. For most industries, a debt:equity ratio between 5:1 and 10:1 is generally acceptable.
[49] **BEL:** A 5:1 thin cap rule applies. In addition to "tainted loans" (loans granted by entities not subject to tax or subject to a substantially more beneficial tax regime), the 5:1 thin cap ratio applies to all intra-group loans (subject to certain limited exceptions). Interest exceeding the 5:1 ratio is disallowed. In addition, a 1:1 thin cap ratio applies to debt issued to individual (not corporate) shareholders and to directors, liquidators or similar persons (individuals and corporations other than EU/EEA corporations). Interest in excess of the 1:1 ratio is recharacterised as dividend. The same recharacterisation applies to the extent the normal market interest rate is exceeded on such debt to shareholders and directors. When the holding company pays interest on a loan to a (quasi-)tax haven entity, the interest payments are only tax deductible when HoldCo proves that the debt relates to "real and sincere" transactions and that the conditions of the debt are not abnormal. Interest paid directly or indirectly to (quasi-)tax havens (including low-tax jurisdictions and jurisdictions that have not effectively or substantially implemented the internationally agreed tax standard on exchange of information, as determined by the OECD) exceeding a total of EUR 100,000 for the taxable period is not deductible if it is not properly reported on the special form to be annexed to the annual corporate income tax return, or if properly reported, the taxpayer does not demonstrate that it is paid in the framework of "real and sincere" transactions with other persons.

As from tax year 2020 (taxable periods starting on or after 1 January 2019), excess borrowing costs will, in accordance with the implementation of EU ATAD, only be deductible to the higher of 30% of taxpayer's EBITDA or EUR 3 million, where excess borrowing costs are defined as the positive difference between the total of interest and other economically equivalent costs, and interest and other economically equivalent income. Loans which taxpayers can demonstrate were concluded prior to 17 June 2016 and to which no fundamental modifications have been made will be grandfathered. The ATAD interest limitation rule is not applicable to a number of defined categories of company (e.g. financial sector companies and "standalone" companies). Unlimited carry-forward of excess interest deduction would be allowed and intragroup transfers of excess interest deduction capacity permitted subject to agreement. The current 5:1 thin capitalisation rule would remain applicable to interest paid to beneficial owners located in tax havens and interest on grandfathered intragroup loans.

[50] **BUL:** Thin cap restrictions could apply if a 3:1 debt:equity ratio is exceeded. Interest deductibility may also be affected by Bulgarian transfer pricing rules.

[51] **CRO:** The deduction for interest paid on a loan received from a non-resident related party is limited to a prescribed maximum deductible interest rate of 4.55% for 2018.
Under the thin capitalisation legislation, interest on loans will be considered non-deductible for corporate income tax purposes if: i) the value of a loan provided by a non-resident shareholder owning at least 25% of the shares or voting rights in the Croatian company, or any other related party, exceeds four times the value of the shareholder's share in the equity capital (i.e. the 4:1 ratio) at any point during the duration of the loan; or ii) a loan received from a third party lender and guaranteed by the Croatian company's shareholders exceeds the 4:1 ratio at any point during the duration of the loan.

[52] **CZ**: Loans and borrowings provided by related parties and "back-to-back" financing are subject to the thin capitalisation rules. The proportion of loans and borrowings to equity must not exceed 4:1 (6:1, if the debtor is a bank or an insurance company). Financial expenses related to loans and borrowings where the amount of interest or amount payable on maturity are dependent on the profit of the debtor are fully non-tax deductible. ATAD I & II are planned to be implemented from 1 January 2019, which would result in amendments to the current rules. However, draft legislation has not yet been introduced.

[53] **DEN:** Net interest expenses are in general tax deductible on an accruals basis assuming that the interest is arm's-length and subject to anti-avoidance rules on hybrid debt and Danish interest limitation rules. Net financing expenses in respect of intercompany debt must satisfy three tests; unrelated third party debt must satisfy two tests (three if secured by group related parties): i) a thin capitalisation test (broadly a 4:1 debt:equity ratio calculated at market value, only relevant for debt to related parties or external debt secured by related parties); ii) an asset test (net financing expenses may not exceed 2.9% (for 2018) of the adjusted tax basis of qualifying assets); and iii) an EBIT test (under which net financing expenses exceeding 80% of taxable earnings before interest are non-tax deductible). The minimum threshold under the asset and EBIT test is DKK 21.3m of interest expense per year for the joint taxation group on a consolidated basis. In certain situations, the thin capitalisation test should also be calculated on a consolidated basis for some or all Danish group companies.

[54] **FIN:** Interest expense are fully deductible when: i) the amount of interest expense is less than the amount of interest income; ii) the amount of net interest expense is less than EUR 500,000; iii) the interest relates to third party loans or iv) the company's equity ratio is equal to or higher than that of the whole group. If interest expense cannot be fully deducted, the deduction is limited to a maximum of 25% of the taxable profit adjusted for interest expenses, depreciation and amortisation. Transfer pricing provisions or general anti-avoidance provisions could also restrict interest deductibility.
Based on recently published Supreme Administrative Court (SAC) rulings regarding deductibility of interest paid by a branch in Finland, the Finnish Tax Administration issued a press release expressing the view that debt push down arrangements can be deemed as tax avoidance, where: i) the intra-group funding is organised through a Finnish branch or a holding company; ii) the arrangement has been given a legal form that does not correspond to the true nature and purpose of the matter (substance-over-form provision) and iii) the objective of the arrangement is to avoid tax. There have been many cases that have been put on hold until the SAC reaches its decisions on a number of branch cases. As the pending cases proceed, together with others involving corporate structures, the arguments will develop further and structures concerning debt pushdowns should be discussed with the Finnish Tax Administration in advance.

[55] **AUS:** However, deductibility is denied if the acquisition concerns direct or indirect participations within a (formal or factual) group of companies.

[56] **BEL:** Subject to general thin cap restrictions. Interest on mortgage loans with no fixed duration (other than cash pooling arrangements) will be capped according to a specific formula for interest relating to periods after 31 December 2019.

[57] **BUL:** There are no specific legal provisions addressing this point. An analysis of potential risks on a case-by-case basis is advisable.

[58] **CRO:** Subject to certain restrictions – see note to "Are there restrictions on interest deductibility?".

[59] **CYP:** An interest restriction on the cost of the acquisition is applied. No interest restriction applies in cases where shares are acquired directly or indirectly in a wholly owned subsidiary, provided that the subsidiary does not own any assets which are not used in the business. If the subsidiary does own assets that are not used in the business, the restriction of interest corresponds to the percentage of assets not used in the business.

[60] **CZ:** In specific cases the interest can be deducted (e.g. for the shareholding of the general partner in a limited partnership).

[61] **DEN:** Interest expenses are deductible on an accruals basis subject to Danish interest limitation rules and Danish anti-avoidance rules. Under Denmark's joint taxation rules, interest expenses in a Danish BidCo can be offset against taxable income in a Danish Target company.

[62] **EST:** Corporate profits are taxed only when distributed as dividends. If no profits are distributed, the rate is 0%. If profits are distributed, the effective rate is 20%. Interest on borrowings to acquire subsidiaries is treated as a business expense.

[63] **FIN:** Provided that sufficient business rationale exists and pricing and other terms are at arm's length. The new related party interest deduction limitation rules may restrict the interest deductibility (see note to "Are there restrictions on interest deductibility?").
[64] **EU/EEA:** For interest payments between directly associated companies in different EU Member States 0% withholding tax may apply, subject to satisfying the conditions in the EC Interest and Royalties Directive. 'Directly associated' companies are those where one has a direct minimum holding of 25% in the capital of the other, or a third EU company has a direct minimum holding of 25% in the capital of both companies. Transitional provisions apply to some Member States – see additional individual country notes for country specific requirements.
[65] **AUS:** Interest payments to non-resident individuals are generally subject to up to 27.5% withholding tax; where the beneficial owner is a corporation, the rate may be reduced to 25%. Relief may be available under tax treaties and in the case of qualified shareholdings in EU or Swiss companies, under the EC Interest and Royalties Directive or the Swiss agreement with the EU. Generally, there is no Austrian tax liability for interest received by non-resident corporations. (There may be other tax consequences in respect of interest payments involving bank transactions or non-resident individuals.)
[66] **BEL:** Domestic law provides for several withholding tax exemptions on interest paid to non-residents, e.g. for interest paid by certain listed holding companies or holding companies owned by a listed company. Belgium has implemented the EC Interest and Royalties Directive into domestic legislation (subject to certain formalities) such that indirect shareholdings can also be taken into account in determining whether the 25% minimum holding requirement is met.
[67] **BUL:** The EC Interest and Royalties Directive has been fully implemented in Bulgaria. The legislation provides for interest and royalty payments between affiliated EU companies/permanent establishments to be exempt from WHT, provided certain criteria are satisfied, including possession of minimum 25% shareholding for an uninterrupted two-year period. The exemption may be applied before the expiration of the two-year period, if the 25% shareholding has not been interrupted as of the date of accrual of the income and would not be interrupted until the two-year term expires. If WHT has been paid on income which is exempt under the directive, a claim for a refund of the tax withheld can be made.
[68] **CRO:** To qualify for the 0% withholding tax rate on interest paid to EU/EEA directly associated companies under the EC Interest and Royalties Directive, Croatia imposes a two-year minimum shareholding requirement.
[69] **CZ:** 35% rate applies to payments derived by the residents of jurisdictions with whom the Czech Republic has not concluded a tax information exchange agreement.
[70] **CZ:** The interest is exempt from tax if paid to a company which is a tax resident of an EU country and the conditions of the EC Interest and Royalties Directive are met.
[71] **DEN:** Withholding tax is not generally imposed on interest paid to an unrelated non-resident company. A foreign group company receiving interest from a Danish company may be subject to withholding tax on the interest at a rate of 22%, unless the beneficial owner of the interest payment can obtain a reduction/elimination of the withholding tax under the EC Interest and Royalties Directive or a tax treaty, in which case the withholding tax is reduced to 0%. Other exemptions may also apply.
[72] **EST:** Estonia does not impose withholding tax on interest payments, except for interest derived by a non-resident from an Estonian contractual fund or other pools of assets, the assets of which at the time of payment of the interest or any time during the two years preceding the payment, consist directly or indirectly of more than 50% of Estonian situs real estate and in which the non-resident had a holding of at least 10% at the time of payment.
[73] **FIN:** Provided the loan is not given in lieu of capital contribution.
[74] **BEL:** Liquidation payments are in principle subject to a 30% withholding tax but an exemption may apply (see the notes regarding withholding tax on dividends). Liquidation payments originating from the "liquidation reserve" of SMEs may be distributed free of withholding tax (as a 10% tax is payable by the company upon allocation of these taxed reserves to the "liquidation reserve").
[75] **BUL:** No withholding tax is imposed on the repatriation of initial capital but any excess is treated as a dividend and subject to withholding tax at the appropriate rate i.e. non-treaty countries: 5%, treaty countries: 0% – 5%, EU/EEA Member States: 0%.
[76] **CRO:** Payments made whilst the company is in liquidation are treated in the same way as regular distributions.
[77] **CYP:** No withholding tax where the liquidation is part of a reorganisation or where the shareholder is non-resident in Cyprus. In other cases, on liquidation, undistributed profits of the previous five years are treated as a distribution on dissolution and subject to a 17% defence contribution. In addition, when assets are distributed whose market value exceeds their cost of acquisition by the company, the excess is deemed to be a dividend subject to a 17% defence contribution.
[78] **CZ:** A payment exceeding the acquisition cost is subject to withholding tax.
[79] **DEN:** For Danish tax purposes, liquidation proceeds can either be regarded as dividends or capital gains on shares. To the extent that the liquidation proceeds are regarded as dividends, Danish withholding taxes can be triggered according to the same principles as other dividend distributions. In general, liquidation proceeds distributed before the year when the liquidation is finalised are regarded as dividends. Liquidation proceeds distributed in the year when the liquidation is finalised are generally regarded as capital gains on shares, but shall be regarded as dividends if: i) the receiving company holds at least 10% of the share capital in the liquidated company and the recipient has limited tax liability for dividends distributed by Danish companies or ii) the receiving company holds less than 10% of the share capital in the liquidated company but has the controlling influence in the liquidated company (broadly defined), unless the Danish withholding tax should have been reduced or eliminated in accordance with the EC Parent-Subsidiary Directive or a tax treaty between Denmark and the country of residence of the recipient, if the shareholding had been above 10% or iii) the recipient is an individual tax domiciled outside of the EU/EEA with decisive influence over the liquidated company or iv) the receiving company holds less than 10% of the share capital of the liquidated (unlisted) company and at

least 50% of the assets of the liquidated company consists of directly or indirectly owned subsidiary or group shares (or the liquidated company has disposed of such shareholdings to a direct or indirect owner or a related party within the last three years prior to the distribution).

[80] **EST:** No withholding tax or any other taxes are payable by the shareholders of HoldCo. However, corporate income tax is payable by HoldCo on its profits if distributed in the form of liquidation proceeds.

[81] **FIN:** Where the assets include Finnish shares/securities, or real estate, transfer tax of 1.6%/2% (shares) or 4% (real estate) may be payable from the liquidation quota.

[82] **EU/EEA:** A binding mandatory general antiabuse rule (GAAR) in the EC Parent-Subsidiary Directive (PSD) requires Member States to deny any tax exemption under the PSD for dividends received where the payment of the dividends resulted in a decrease in the taxable base of a distributing entity that is tax resident in another EU Member State. See additional individual country notes for country specific requirements.

[83] **AUS:** Dividends can be fully exempt under the participation exemption (subject to certain requirements).

[84] **BEL:** The 95% dividend received deduction (DRD) is applicable provided the taxation requirement is met and the shareholder continuously has/had full ownership of the shares (in addition to meeting the holding period and ownership requirements). If the taxable base prior to the application of the DRD is lower than the current year DRD, the excess DRD can be carried forward indefinitely.
With effect from tax year 2019 (taxable periods starting on or after 1 January 2018) the DRD will be 100% but the utilisation of some tax attributes, including the DRD carry-forward, will be limited to EUR 1 million plus 70% of the taxable base.

[85] **BUL:** Dividends received from Bulgarian, EU and EEA tax resident entities are exempt. Dividends received from entities resident in other states are treated as ordinary income and subject to corporate tax at 10% as part of the overall profit of the entity. Following the implementation of the binding mandatory GAAR in the EC Parent-Subsidiary Directive (PSD), Bulgaria will not exempt dividends under the PSD, where the payment of the dividends results in a tax deductible expense and/or decrease in the taxable base of a distributing EU/EEA entity, regardless of the manner in which the distributing entity accounts for such payments.

[86] **CRO:** Dividend income from both domestic and foreign companies is not subject to corporate income tax. Any foreign withholding tax paid on foreign dividends received cannot be credited against domestic corporate income tax.

[87] **CYP:** Domestic dividends are exempt unless indirectly received four years after the profits out of which the dividends are paid were earned. Foreign dividends are exempt if: i) the payer does not engage in more than 50% investment activities (excluding dividend income received directly or indirectly from trading subsidiaries) or ii) where investment activities exceed 50%, the foreign tax burden on the company's income is not significantly less than the Cyprus tax on the Cyprus company (in practice, less than 6.25%). The exemption does not apply and the dividend is taxed as other income at 12.5% if the dividend is treated as a tax deductible expense in calculating the tax liability of the paying company.

[88] **CZ:** Dividends received from subsidiaries in other EU Member States and Switzerland are exempt if the requirements for application of the EC Parent-Subsidiary Directive are met. Other dividends are exempt from tax if paid by a subsidiary which: i) is tax resident in a country outside the EU with which the Czech Republic has concluded a tax treaty; ii) has specific legal form; iii) meets the necessary conditions for dividend exemption as for an EU subsidiary; and iv) is subject to a tax in its country of residence which is similar to Czech income tax and payable at a rate of at least 12%.

[89] **DEN:** Dividends derived from "subsidiary" or "group" shares are exempt. Other dividend income is taxable at the standard Danish corporate tax rate. Dividends received by Danish companies on unlisted "portfolio shares" are taxable at 70% of the standard Danish corporate tax rate, giving an effective tax rate of 15.4%. "Portfolio shares" are shares that do not qualify as subsidiary shares or group shares. "Subsidiary shares" are shares where the shareholder owns directly at least 10% of the nominal share capital of the company and the company is: i) Danish or ii) a foreign company fully tax liable to corporate taxation in its country of tax residency and that country of tax residency has a double tax treaty with Denmark or an agreement to share tax information with Denmark. "Group shares" are shares where the shareholder and the company are subject to mandatory Danish tax consolidation or qualify for voluntary international tax consolidation (controlling shareholdings). Denmark has special anti-avoidance rules applicable to holding companies that are inserted into a group structure in order for the shareholders to reach an ownership level of at least 10% (the normal threshold for receiving tax exempt dividends).

[90] **EST:** Profits (including dividends received and capital gains) are taxed only when distributed. Corporate income tax at 20% (14%) of the gross distribution (20/80 (14/86) of the net amount) is payable by the payer of the dividend. However, certain distributed dividends are tax exempt when redistributed. An Estonian company may, without further corporate tax, redistribute dividends of the amount received from its own subsidiaries (participation exemption). The exemption method applies automatically if the subsidiary is a tax resident of an EU Member State, Iceland, Norway or Switzerland. For dividends received from a subsidiary in another country, the Estonian company has to prove that the dividends received were subject to withholding taxes or that the underlying profit was taxed.

[91] **FIN:** Dividends are exempt if received from a resident unquoted payer or foreign unquoted payer resident in an EU or EEA Member State (also portfolio investments) or if the dividends are paid on a direct shareholding and are exempt under the terms of an applicable tax treaty (required percentage shareholding varies from 0%-25%). Dividends received from companies resident for tax purposes outside the EU/EEA would be fully taxable, unless the treaty provides for exemption. Special rules apply to financial institutions and dividends distributed by listed companies.

[92] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.

[93] **AUS:** However, if the foreign subsidiary has neither substance nor economic functions, it may be disregarded from an Austrian tax perspective.
[94] **BUL:** The exemption applicable to EU or EEA source dividends is not subject to specific substance requirements. There are no CFC rules in Bulgarian legislation.
[95] **CZ:** ATAD I & II are planned to be implemented from 1 January 2019, which would result in amendments to the current rules. However, draft legislation has not yet been introduced.
[96] **DEN:** Denmark has CFC legislation in accordance with which a Danish resident company or a Danish PE of a foreign company may be subject to tax on the total income of a subsidiary or foreign PE of a Danish company if: i) the subsidiary is controlled directly or indirectly by the Danish resident company; ii) the CFC (financial) income of the subsidiary constitutes more than half of the subsidiary's taxable income and iii) the subsidiary's financial assets on average constitute more than 10% of its total assets in that income year.
[97] **EST:** Dividend exemptions shall not apply with regard to a transaction or chain of transactions which is artificial as its main objective or one of the main objectives is obtaining a tax advantage.
[98] **FIN:** Finnish CFC legislation may apply if certain criteria are met. The net income of a CFC may be taxable income for the Finnish shareholder, whether or not the net income is distributed to the shareholder. In practice, the Finnish tax authorities are focusing on foreign subsidiaries' substance and may seek to challenge artificial arrangements with no or very little substance.
[99] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.
[100] **BEL:** However, see note to "Is there CFC or similar legislation?", regarding the switch-over provision.
[101] **BEL:** Foreign subsidiaries must be subject to a tax similar to the Belgian corporate income tax and may not be located in countries where the generally applicable tax regime is substantially more favourable than the Belgian tax regime. In the latter case, for subsidiaries located in a non-EU/EEA Member State, a nominal and effective tax rate of at least 15% is required. Subsidiaries located in an EU/EEA Member State are generally considered to be subject in principle to a tax regime similar to Belgian corporate income tax. Some other specific provisions on whether dividends are considered to meet the taxation requirement exist. Detailed analysis of compliance with the taxation requirement is necessary. In line with the amended EU Parent-Subsidiary Directive, the distributed dividend may not be deductible at the level of the foreign subsidiary and a specific anti-abuse rule to avoid DRD tax abuse has been introduced.
[102] **BUL:** The exemption applicable to EU or EEA source dividends is not subject to specific substance requirements. There are no CFC rules in Bulgarian legislation.
[103] **CZ:** For non-EU subsidiaries, one of the conditions for exemption is that the subsidiary is subject to a tax in its country of residence which is similar to Czech income tax and payable at a rate of at least 12%. ATAD I & II are planned to be implemented from 1 January 2019, which would result in amendments to the current rules. However, draft legislation has not yet been introduced.
[104] **DEN:** Where the shares in the foreign subsidiary are categorised as "subsidiary shares", the subsidiary must be fully liable to local corporate taxation. In addition, special rules apply to collective investment vehicles.
[105] **EST:** The tax burden is important if the subsidiary is situated in a country other than an EU Member State, Iceland, Norway or Switzerland. In order to apply the dividend participation exemption at the level of the Estonian holding company, the Estonian HoldCo has to prove that the dividends received have been subjected to withholding taxes or that the underlying profit was taxed.
[106] **FIN:** Finnish CFC legislation may apply if certain criteria are met. The net income of a CFC may be taxable income for the Finnish shareholder, whether or not the net income is distributed to the shareholder.
[107] **AUS:** No required holding period for portfolio dividends from EU countries and any other country that has concluded a comprehensive administrative assistance agreement with Austria as well as for participations in Austrian corporations. In the case of other (qualified) participations, dividends received in the first year are taxed as normal. If the shares are subsequently held for more than one year, the tax may be refunded.
[108] **BUL:** The exemption applicable to EU or EEA source dividends is not subject to a minimum holding period requirement.
[109] **FIN:** However, short/temporary artificial arrangements may be challenged.
[110] **AUS:** No minimum required percentage for portfolio dividends from EU countries and any other country that has concluded a comprehensive administrative assistance agreement with Austria as well as for participations in Austrian corporations. 10% for other participations.
[111] **BEL:** The 10% minimum holding must be held in full legal ownership; usufruct or bare ownership are not sufficient.
[112] **BUL:** The exemption applicable to EU or EEA source dividends is not subject to a minimum percentage ownership requirement.
[113] **DEN:** Dividends derived from "subsidiary" or "group" shares are exempt. Other dividend income is taxable at the standard Danish corporate tax rate. Dividends received by Danish companies on unlisted "portfolio shares" are taxable at 70% of the standard Danish corporate tax rate, giving an effective tax rate of 15.4%. "Portfolio shares" are shares that do not qualify as subsidiary shares or group shares. "Subsidiary shares" are shares where the shareholder owns directly at least 10% of the nominal share capital of the company and the company is: i) Danish or ii) a foreign company fully tax liable to corporate taxation in its country of tax residency and that country of tax residency has a double tax treaty with Denmark or an agreement to share tax information with Denmark. "Group shares" are shares where the shareholder and the company are subject to mandatory Danish tax consolidation or qualify for voluntary international tax consolidation (controlling shareholdings). Denmark has special anti-avoidance rules applicable to holding

companies that are inserted into a group structure in order for the shareholders to reach an ownership level of at least 10% (the normal threshold for receiving tax exempt dividends).
[114] **FIN:** Percentage depends on the nature of the payer, the recipient and the terms of any applicable tax treaty or EC directive.
[115] **AUS:** Companies holding qualifying foreign participations may exercise an option to have capital gains/write-ups and capital losses/write-downs treated as taxable or tax deductible, respectively. The option must be exercised in the year of acquisition of the participation and cannot be revoked. Capital gains/write-ups and capital losses/write-downs of participations in Austrian corporations are generally tax effective.
[116] **BEL:** The exemption is available provided that the shareholding satisfies the taxation requirement and a one-year holding period is met. Exemption applies to the net amount of the capital gain, i.e. the gross capital gain less the costs related to the disposal. The exempt net capital gain is however subject to a separate 0.412% tax (except for SMEs). Capital gains on disposals by "trading companies" of shares belonging to their "trading portfolio" are taxable. Special rules apply to capital gains realised as the result of restructurings such as mergers and demergers.
With effect from tax year 2019 (taxable periods starting on or after 1 January 2018) the 100% capital gains exemption will become subject to the minimum holding requirement that already applies for the participation exemption (dividend received deduction), i.e. a shareholding of at least 10% or with an acquisition value of at least EUR 2.5 million. In addition, where the DRD is only proportional, the capital gains exemption will also be only proportional. The 0.412% tax for exempt capital gains on shares realised by MNEs will be abolished.
[117] **BUL:** The capital gains or losses realised from the disposal of participations are recognised for tax purposes as part of the overall financial result. Capital gains realised from the trading of shares on a Bulgarian, EU or EEA regulated securities market are tax exempt and losses from such shares are correspondingly not deductible, provided that certain specific requirements are met.
[118] **CRO:** The standard corporate income tax rate is reduced to 18% (from 20%) from 1 January 2017. A 12% rate applies to taxpayers with annual income of less than HRK 3 million.
[119] **CYP:** Disposals of shares in a subsidiary are exempt from capital gains tax unless the subsidiary directly or indirectly owns immovable property situated in Cyprus, in which case gains related to that property are subject to capital gains tax.
[120] **CZ:** Gains on disposal of participations form part of the aggregate tax base, unless the conditions for tax exemption are met (exemption will not apply if either the parent or subsidiary company are generally exempt from corporate income tax, or the statutory corporate income tax is zero).
[121] **DEN:** Capital gains realised on a disposal of "subsidiary" or "group" shares and "tax-exempt portfolio shares" are exempt. 22% taxation is triggered on capital gains on taxable portfolio shares. Special rules apply if the taxpayer is regarded as a "trader of shares" for tax purposes (22% tax).
[122] **FIN:** Capital gains on the sale of shares in a company (other than a real estate company) are exempt if the shares form part of the seller’s fixed assets, generate business income and belong to the business profit basket and the seller owns at least 10% of the company’s share capital for a period of at least one year. The company whose shares are sold must reside in Finland, another EU Member State or a country with which Finland has an effective tax treaty. Provisions exist to recapture deductions already taken. Exemption is not available if the seller is a venture capital company or a passive holding company not eligible for active business status. If the exemption does not apply, the corporate shareholder would pay tax at 20% on the capital gain.
[123] **AUS:** Companies holding qualifying foreign participations may exercise an option to have capital gains/write-ups and capital losses/write-downs treated as taxable or tax deductible, respectively. The option must be exercised in the year of acquisition of the participation and cannot be revoked. Capital gains/write-ups and capital losses/write-downs of participations in Austrian corporations are generally tax effective.
[124] **BEL:** Other than on liquidation when losses are deductible to the extent of HoldCo's stake in the subsidiary’s fiscally paid in capital. Capital losses on disposals by "trading companies" on shares belonging to their "trading portfolio" are deductible.
[125] **BUL:** Capital gains realised from the trading of shares on a Bulgarian, EU or EEA regulated securities market are tax exempt and losses from such shares are correspondingly not deductible, provided that certain specific requirements are met.
[126] **CZ:** Only losses on securities revalued to fair market value in accordance with accounting legislation (e.g. minor shareholdings) are deductible.
[127] **DEN:** Capital losses realised on a disposal of "subsidiary" or "group" shares and "tax-exempt portfolio shares" are not tax deductible.
[128] **EST:** Corporate profits are taxed only when distributed as dividends. If no profits are distributed, the rate is 0%. If profits are distributed, the effective rate is 20% (14%). As there is no annual corporate income tax, certain tax concepts, such as "capital loss" are not relevant in Estonia.
[129] **FIN:** Capital losses are deductible only if the participation exemption would not apply to a corresponding capital gain (see note to "How are gains on the sale of a subsidiary taxed?"). As a rule, tax-deductible capital losses can be offset only against corresponding capital gains in that year and the five following years.
[130] **AUS:** Companies holding qualifying foreign participations may exercise an option to have capital gains/write-ups and capital losses/write-downs treated as taxable or tax deductible, respectively. The option must be exercised in the year of acquisition of the participation and cannot be revoked. Capital gains/write-ups and capital losses/write-downs of participations in Austrian corporations are generally tax effective.
[131] **BEL:** Except for write-downs by "trading companies" on the shares belonging to their "trading portfolio".
[132] **CRO:** Any write-down below the acquisition cost of a financial asset is not tax deductible until the asset is sold.

[133] **CZ:** Only losses on securities revalued to fair market value in accordance with accounting legislation (e.g. minor shareholdings) are deductible.
[134] **EST:** Corporate profits are taxed only when distributed as dividends. If no profits are distributed, the rate is 0%. If profits are distributed, the effective rate is 20% (14%). As there is no annual corporate income tax, certain tax concepts, such as "capital loss" and "tax depreciation" are not relevant in Estonia. Interest on borrowings to acquire subsidiaries is treated as a business expense.
[135] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.
[136] **AUS:** No legal requirement but in practice it is recommended to have an office and staff to avoid a "look through" approach.
[137] **BUL:** There are no CFC rules in Bulgarian legislation.
[138] **CZ:** ATAD I & II are planned to be implemented from 1 January 2019, which would result in amendments to the current rules. However, draft legislation has not yet been introduced.
[139] **DEN:** However, Danish CFC taxation may be triggered.
[140] **FIN:** In order for the capital gains on sale of the shares in a company (other than a real estate company) to be exempt, the shares should e.g. form part of the seller's fixed assets, generate business income and belong to the business profit basket. In order to fulfil the requirements, the subsidiary has to transact business activities related to the parent company's activities. Please see other requirements on the note to "How are gains on the sale of a subsidiary taxed?".
[141] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.
[142] **BEL:** However, see note to "Is there CFC or similar legislation?", regarding the switch-over provision.
[143] **BEL:** Foreign subsidiaries must be subject to a tax similar to the Belgian corporate income tax and may not be located in countries where the generally applicable tax regime is substantially more favourable than the Belgian tax regime. In the latter case, for subsidiaries located in a non-EU/EEA Member State, a nominal and effective tax rate of at least 15% is required. Subsidiaries located in an EU/EEA Member State are generally considered to be subject in principle to a tax regime similar to Belgian corporate income tax. Some other specific provisions on whether dividends are considered to meet the taxation requirement exist. Detailed analysis of compliance with the taxation requirement is necessary.
[144] **BUL:** There are no CFC rules in Bulgarian legislation.
[145] **CZ:** The exemption will not apply if either the parent or subsidiary company are generally exempt from corporate income tax, or the statutory corporate income tax rate is zero. ATAD I & II are planned to be implemented from 1 January 2019, which would result in amendments to the current rules. However, draft legislation has not yet been introduced.
[146] **DEN:** Where the shares in the foreign subsidiary are categorised as "subsidiary shares", the subsidiary must be fully liable to local corporate taxation. In addition, special rules apply to collective investment vehicles.
[147] **FIN:** No specific requirements but Finland has a relatively wide anti-avoidance clauses which can be applied to artificial arrangements.
[148] **BEL:** Tax at 25.75% (25% standard rate plus a 3% surcharge) applies to sales within one year.
The rate is 25.5% with effect from tax year 2019 (taxable periods starting on or after 1 January 2018). From tax year 2021 (taxable periods starting on or after 1 January 2020) the tax rate for capital gains on shares not meeting the minimum holding period requirement will be 25%, equivalent to the standard tax rate.
[149] **BUL:** Capital gains are taxable regardless of the holding period.
[150] **FIN:** The seller must have owned at least 10% of the company's share capital directly and continuously for at least one year during a period ended no more than one year prior to the sale.
[151] **BEL:** With effect from tax year 2019 (taxable periods starting on or after 1 January 2018) the 100% capital gains exemption will become subject to the minimum holding requirement that already applies for the participation exemption (dividend received deduction), i.e. a shareholding of at least 10% or with an acquisition value of at least EUR 2.5 million.
[152] **BUL:** Capital gains are taxable regardless of the percentage ownership.
[153] **DEN:** Capital gains realised on a disposal of "subsidiary" or "group" shares and "tax-exempt portfolio shares" are exempt. Special rules apply if the taxpayer is regarded as a "trader of shares" for tax purposes (22% tax).
[154] **FIN:** If the seller has owned at least 10% of the company's share capital directly and continuously for at least one year and all of the shares disposed of have been owned for a period of at least one year, the tax exemption applies even if the shares disposed of represent less than 10% of the share capital. In addition, the exemption applies to disposals of shares which take place within one year of the date on which the percentage shareholding falls below 10%.
[155] **BEL:** With effect from tax year 2020 (taxable periods starting on or after 1 Janaury 2019) a limited form of group taxation will be achieved by allowing the transfer of tax losses among Belgian companies and permanent establishments of EEA resident companies within a group (deduction for group contribution). The deduction will require the conclusion of a group contribution agreement among qualifying companies.
[156] **CYP:** Group relief for losses only is available.
[157] **DEN:** Joint taxation is mandatory for all controlled Danish companies. An election can be made to include all foreign group companies in the joint taxation.

[158] **FIN:** There is no tax consolidation in Finland; however, Finnish group companies may level out their taxable profits through group contributions if certain conditions are met.
[159] **GER:** Advance rulings are also available for proposed new entities not yet in existence.
[160] **IRE:** Certain holding/HQ entities have the option to seek advance rulings on Irish tax residence status, taxation of directors, withholding tax clearances and certain other tax matters. Where appropriate, an opinion/confirmation will contain a provision setting out the period for which the opinion/confirmation will apply and that period will normally be five years (previously seven years) or the equivalent length of time in accounting periods of the taxpayer concerned. However, a shorter period can apply in some cases. From 1 January 2017, the Irish Revenue exchange information on relevant opinions with all other EU Member States, in line with EU and OECD Exchange of Information Requirements in Respect of Tax Rulings.
[161] **LAT:** An advance ruling request is made in the form of an enquiry to the tax authorities. The ruling has no mandatory force for the person that files the enquiry but is however binding on the tax authorities.
[162] **FRA:** Case law in respect of French anti-avoidance legislation must be taken into account. For example, the holding company must be a genuine and effective establishment and not a purely artificial arrangement. In addition, acquisition-related interest expenses may be restricted if the shareholding is not actually managed from France.
[163] **GRE:** There are requirements in both tax and commercial legislation. Tax residence for corporate income tax purposes is defined as incorporation under Greek law or having an effective place of management in Greece. Factors taken into account when determining effective place of management are the place of: day-to-day management; strategic decision making; the shareholders' General Assembly; tax records; directors' meetings; residence of the members of the Board of Directors and residence of the majority of the shareholders.
[164] **IRE:** However, it may be necessary to meet certain criteria to achieve Irish tax residence (e.g. location of board meetings, effective management etc.).
[165] **ITA:** A special tax regime applies to shell companies where income is below defined thresholds ("operative test"). A company is deemed to be "non-operating" when the average of the last three years of profits are less than 2% of the average of the value of the participations (plus the amount of the credits). For these companies, taxable income is defined as 1.5% of the value of the participations plus credits. This rule also applies for IRAP purposes. HoldCo can avoid applying the test with reference to participations held in operating companies (which therefore have passed the operating test). Taxpayers that can satisfactorily explain to the tax authorities in advance why they cannot meet the minimum required profit will not be subject to the special regime. Where further assets are owned (e.g. real estate property or other fixed assets), different percentages apply.
[166] **LAT:** Minimum share capital requirements are EUR 2,800 (or EUR 1 for small companies) for a limited liability company and EUR 35,000 for a joint stock company.
[167] **GIB:** Nominal stamp duty of GBP 10 is payable upon the initial creation of, and subsequent increase in, authorised share capital.
[168] **GRE:** Capital duty (statutory rate 1%) is not imposed upon incorporation of a Greek company, but only on subsequent share capital increases. There is an additional 0.1% contribution in favour of the Greek Competition Committee on capital contributions to Greek SA Companies only (whether upon formation or share capital increase); other duties are also payable to the Lawyer's Fund, notary public, General Commercial Registry etc. upon a share capital increase or on the original share capital issue.
[169] **HUN:** Registration fees of HUF 600,000 are payable for European public limited companies and HUF 100,000 for private limited companies and limited liability companies.
[170] **ITA:** A registration tax is due on cash contributions and assets in exchange for shares. A flat amount of EUR 200 is due for cash contributions and contributions of assets other than immovable property.
[171] **GRE:** Not for common holding companies.
[172] **IRE:** CGT participation exemption regime and de facto dividend exemption in many cases. See "Taxation of HoldCo income – Dividends: How are dividends taxed?".
[173] **GRE:** CFC rules apply to >50% directly or indirectly owned subsidiaries, resident either in jurisdictions with a beneficial tax regime (defined as a corporate income tax rate of less than 14.5%) or jurisdictions included on the Ministry of Finance "black list" and who receive passive income from affiliated entities. For the CFC rules to apply to EU subsidiaries, the transaction must be deemed as artificial, with the purpose of tax avoidance or tax evasion.
[174] **HUN:** Substance and other requirements regarding the subsidiary (and branch) may be relevant if the CFC regime applies.
[175] **IRE:** CFC rules will be required to be introduced in accordance with the EU Anti-Tax Avoidance Directive.
[176] **ITA:** The CFC regime applies to companies in which an Italian entity has a substantial, direct or indirect, interest of more than 50% of the share capital (so-called "controlled entities"). Such companies are considered as tax transparent entities and their estimated income is attributed to the Italian parent and taxed on an accruals basis. The rules provide different criteria for the estimation of income derived by controlled entities. In addition, the tax regime applicable to controlled entities could be extended under certain conditions to companies not located in tax havens (white list countries, except for EEA and EU countries with an exchange of tax information agreement). The genuine nature of a CFC can be demonstrated during tax inspections, since obtaining a preventive tax ruling is not mandatory and an Italian parent company can choose whether to submit a preventive ruling or to demonstrate the "bona fides" of its CFCs during a tax inspection.
Where the CFC rules are directly disapplied by the Italian parent, in the absence of the submission of a preventive ruling petition or disregarding the negative result of such a ruling, the Italian parent entity will have to expressly disclose in its tax return its interest in CFC entities.
From the 2017 tax period, the CFC regime applicable to black list entities will apply to controlled entities subject to a nominal tax rate less than 50% of the Italian one - i.e. for FY 2017, less than 50% of 27.9% (24% CIT tax rate plus 3.9% local tax rate).
[177] **GIB:** No double tax treaties but domestic legislation provides for unilateral tax relief for foreign taxes suffered on income that is subject to tax in Gibraltar.

[178] **FRA:** A "social" surcharge of 3.3% is applied on the aggregate corporate tax which exceeds EUR 763,000, leading to an effective overall CIT rate of 34.43%. For FYs closing on or after 31 December 2017, the effective overall rate will progressively decrease from 34.43% to 25.8% (25% + 3.3% of the aggregate corporate tax). For 2017, the reduction will only be applicable to SMEs and only on the first EUR 75,000 of their taxable income. For 2018, a 28% rate (i.e. 28.9% effective tax rate) will apply to other companies but only on the first EUR 500,000 of taxable income, the excess being taxed at 34.43%. In 2019, the 28% rate will be applicable to the first EUR 500,000 of taxable income, with the excess subject to tax at 31% (32% effective tax rate). In 2020, the 28% rate will become the standard rate for all companies (i.e. 28.9% effective tax rate). This tax rate will then decrease from 28% to 26.5% in 2021 (27.4% effective tax rate) and 25% in 2022 (25.8% effective tax rate).
[179] **GER:** The rate comprises 15% corporate income tax plus 5.5% solidarity surcharge (giving an effective rate of 15.825%) and municipal trade tax on income from 7% to 19% depending on the municipality in which the company is located. In major cities, the municipal rate ranges from 14% to 17%, resulting in an overall effective corporate tax rate of approximately 30% - 33%. Municipal trade tax is based on the corporate income tax base with some adjustments for certain income items and is not a deductible expense.
[180] **GIB:** Corporate tax is only payable on income accrued in or derived from Gibraltar. Investment and dividend income are not subject to tax. Intercompany interest is only subject to tax if it exceeds GBP 100,000 (connected party interest income is aggregated for the purposes of this threshold).
[181] **HUN:** A flat 9% CIT rate applies from 1 January 2017.
[182] **IRE:** A 12.5% corporate tax rate applies to trading income and certain dividend income, with non-trading (passive) income taxable at 25%. Capital gains are subject to tax at an effective rate of 33%.
[183] **ITA:** A CIT surcharge is levied on "non operating" companies which are, therefore, subject to a higher effective CIT tax rate of 34.5% (24% + 10.5%). For credit and financial entities, there is a CIT surcharge of 3.5%, resulting in an effective tax rate of 27.5% (24% + 3.5% = 27.5%). The regional rate varies depending on the region in which the company is established and the sector in which the holding company operates.
[184] **LAT:** Corporate profits are taxed at 20% only when distributed as dividends; if no profits are distributed, the rate is 0%.
[185] **ITA:** A notional interest deduction (NID) is permitted for the notional yield of the annual increase in a company's equity at a rate of 1.5% for 2018 (1.6% for 2017). The NID regime for holding companies is the same as for all other operating entities subject to the corporate income tax regulations. New anti-abuse rules effective from 2017 require entities other than financial entities to treat the difference between the book value of securities (as distinguished from interests) held as at the end of the relevant financial year and the book value of securities held as at 31 December 2010 as a decrease of the capital available for the purposes of the NID computation.
[186] **FRA:** The rate of registration duties on the transfer of shares is 0.1% regardless of the transaction amount. The sale of unlisted shares in an SA, SAS or SCA is subject to registration duties in France, even if the sale agreement is signed abroad or there is no signed deed. A limited number of exemptions are available, for example for listed shares and for transactions between members of the same group.
Sale of shares of real estate companies: a 5% rate applies. For registration duty purposes, the value of the shares sold is determined after deduction of debts, including both those related to the acquisition of property and property rights, as well as other liabilities.
Capital gains tax may also be payable in France by a foreign shareholder in HoldCo when the tax treaty concluded between France and the state of residence of the seller permits such taxation. In such cases, capital gains are subject to tax in France at the rate of 45% if the seller holds more than 25% of the capital of the French HoldCo. The portion of any such tax in excess of the amount of corporate income tax that a French shareholder would have suffered may be refunded, upon request, to the EU shareholder under certain conditions. Irrespective of the percentage of shares held, capital gains are taxable at the fixed rate of 75% when the seller is located outside France in a non-cooperative state or territory (NCST).
[187] **GER:** Capital gains on the sale of shares by non-resident corporate shareholders are subject to German taxation under domestic law if the shareholder held at least 1% of the capital at any time during the previous five years.
According to a recent decision of the Supreme Tax Court (BFH), the 100% tax exemption for capital gains from the sale of shares by corporate shareholders is not reduced to 95% (by a 5% add-back for non-deductible expenses) when the non-resident corporate shareholder does not have a permanent establishment or a dependent agent in Germany.
The tax exemption does not apply in certain exceptional cases, e.g. in the case of shares acquired on or after 1 January 2017, to holding companies in which banks directly or indirectly hold more than 50% provided the holding company records the shares as current assets upon initial recognition (in case of shares acquired before 1 January 2017, to holding companies which acquired the shares with the intention of realising a short-term profit from trading, irrespective of the ownership of the holding company; the "held for trading exception")..
[188] **GIB:** No capital gains tax in Gibraltar. If there is underlying Gibraltar property in the company, stamp duty would be payable, based on the value of the property.
[189] **GRE:** Gains from the transfer of listed and unlisted shares by a non-resident corporate shareholder are deemed to be normal business income taxable at 29%, provided that capital gain is attributed to a permanent establishment of the non-resident corporate shareholder in Greece. If no permanent establishment exists, the gain is exempt from tax under domestic law. For listed shares a 0.2% transfer tax also applies, payable by the seller (cleared through the stock exchange).
[190] **HUN:** A capital gain realised by a shareholder in a Hungarian real estate company is taxable at 9%, unless there is a double tax treaty which prevents the gain from being taxed.
[191] **IRE:** No Irish tax payable, unless the Irish HoldCo shares derive the greater part of their value from certain specified assets, for example, real estate or minerals in Ireland.

[192] **ITA:** Under Italian domestic law capital gains realised by white list entities or listed companies on non-qualified participations are tax exempt. Any other capital gain is in principle taxable at the standard corporate rate (24%). No tax would be payable if a tax treaty applies providing the gain is chargeable only in the country of tax residence of the seller.
[193] **LAT:** If more than 50% of the Latvian HoldCo's assets comprise real estate situated in Latvia, the full sales proceeds are subject to 3% corporate income tax (this also applies to sales between non-residents). Non-residents may choose to tax only the profit from the sale of immovable property in Latvia at 20%, if they have supporting documentation to prove the amount of the profit.
[194] **EU/EEA:** In accordance with the terms of the EC Parent-Subsidiary Directive, distributions of profits (other than on a liquidation) to a parent company in one Member State by a subsidiary in another Member State are generally exempt from withholding tax provided a minimum 10% shareholding requirement is met. Member States have some flexibility over the implementation of the Directive – see additional individual country notes for country specific requirements.
[195] **FRA:** A 75% rate applies to dividends paid to a non-cooperative state or territory (NCST). The participation exemption may apply to dividends received in a NCST, provided that the French company can demonstrate that the distributing entity carries on real activities and that the location of the entity does not aim at, or result in, the entity benefiting from a favourable tax regime in the NCST. In accordance with the anti-abuse rule within the EC Parent-Subsidiary Directive, the withholding tax exemption does not apply if one of the main purposes of an arrangement is to obtain a tax advantage that would defeat the object or purpose of the parent-subsidiary regime, and the arrangement is not genuine. An arrangement shall be regarded as not genuine to the extent that it is not put into place for valid commercial reasons which reflect economic reality.
[196] **GER:** The withholding tax exemption under the EC Parent-Subsidiary Directive requires that: i) the shareholder holds directly at least 10% of the capital at the date of the dividend payment or shareholder resolution, ii) the participation is held continuously for at least 12 months and iii) the dividend payment does not qualify as a tax-deductible expense at the level of the dividend payer. Dividend payments by German dividend payers are not tax-deductible. The payer company may apply the zero withholding tax rate only if the parent company presents an exemption certificate from the Federal Tax Office before the payment is made. Otherwise, the withholding tax is refunded by the Federal Tax Office upon application.
In accordance with the anti-treaty/directive-shopping rule, treaty or EC Parent-Subsidiary Directive relief is not available to a non-resident corporate shareholder if, and to the extent that, three conditions are met: i) the owners of the non-resident corporate shareholder would not be entitled to the relief had they received the dividend directly ("personal entitlement test"); ii) the earnings of the foreign company do not arise from its own business activities in the relevant financial year (""active earnings test"") and iii) alternatively (a) there are no economic or other bona fide reasons for interposing the foreign company with regard to these non-active earnings (""business purpose test"") or (b) the foreign company does not participate in general commerce through a business establishment that is adequately equipped ("substance test"). The burden of proof for meeting the business purpose test and the substance test lies with the non-resident corporation. The anti-treaty/directive-shopping rule does not apply to foreign companies who: i) are listed on a stock exchange and whose shares are regularly traded or ii) qualify as investment funds. The question of EU conformity of the rule has recently been referred to the European Court of Justice for a preliminary ruling.
Since 1 January 2017, in the case of minority shareholdings (a participation of less than 10%), full or partial relief from withholding tax requires, amongst other conditions, a minimum holding period of 45 days within a period of 45 days before and after the date the dividend becomes due, where a treaty rate of less than 15% is claimed. The rule does not apply when the shares are not held in collective safe custody or are held for at least one year.
[197] **GER:** The withholding tax exemption under the EC Parent-Subsidiary Directive requires that: i) the shareholder holds directly at least 10% of the capital at the date of the dividend payment or shareholder resolution, ii) the participation is held continuously for at least 12 months and iii) the dividend payment does not qualify as a tax-deductible expense at the level of the dividend payer. Dividend payments by German dividend payers are not tax-deductible.
The payer company may apply the zero withholding tax rate only if the parent company presents an exemption certificate from the Federal Tax Office before the payment is made. Otherwise, the withholding tax is refunded by the Federal Tax Office upon application.
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Since 1 January 2017, in the case of minority shareholdings (a participation of less than 10%), full or partial relief from withholding tax requires, amongst other conditions, a minimum holding period of 45 days within a period of 45 days before and after the date the dividend becomes due, where a treaty rate of less than 15% is claimed. The rule does not apply when the shares are not held in collective safe custody or are held for at least one year.
[197] **GIB:** No withholding tax on dividends to non-residents.
[198] **GIB:** No withholding tax on dividends to non-residents.

[199] **GRE**: 15% withholding tax applies to dividends distributed on the basis of General Assembly Resolutions/Partner's Meetings taking place on or after 1 January 2017 (previously 10%).
[200] **GRE:** 0% WHT applies to dividends eligible under the EC Parent-Subsidiary Directive, which requires a minimum 10% holding for an uninterrupted period of 24 months. Dividends distributed within the 24-month period may be paid without WHT being levied if a bank letter of guarantee is furnished to the Greek tax authorities, equal to the amount of tax that should had been withheld. If the 24-month holding period is not completed, the guarantee will be called-in.
[201] **HUN:** 0% withholding tax does not apply to payments to individuals.
[202] **IRE:** Ireland also has a domestic regime which provides for a broad range of exemptions from Irish dividend withholding tax. Therefore, in certain instances, dividends can be paid without withholding tax to non-EU/treaty locations, if the Irish domestic exemption can be applied. The treatment will depend on the facts of each case/ownership structure involved. There is a simple self-certification process for corporate shareholders to avail of this Irish domestic exemption.
[203] **ITA:** Taxes paid by the shareholder in the state of residence can be refunded up to a maximum of 11/26ths of the 20% withholding tax.
[204] **ITA:** The 1.2% rate applies to dividends paid to entities resident in the EEA white list jurisdictions and EU when the conditions for withholding tax exemption under the EC Parent-Subsidiary Directive are not satisfied.
[205] **LAT:** Profits are taxed only when distributed. Corporate income tax at 20% of the gross distribution (20/80 of the net dividend) is payable by the payer of the dividend. Latvia does not impose additional withholding tax on dividends, other than on dividend payments to companies resident in countries and territories listed as low tax jurisdictions, when the 20% withholding tax rate applies.
[206] **FRA:** Interest paid to related parties is limited in terms of rates and ratios. The maximum rate is the higher of:
i) the average interest rate granted by banks on variable rate loans with a duration of more than two years; and
ii) the interest rate that the French borrowing company could have obtained from independent banks under similar conditions.
Interest paid to a related party may also be disallowed if the following three thresholds are simultaneously exceeded:
i) the amount of borrowings from related parties exceeds 1.5 times the net equity;
ii) the amount of interest paid to related parties exceeds 25% of the adjusted current profit (ACP) for the year. The ACP is calculated based on operating profits before tax (including financial results), increased by: interest paid to related parties, depreciation expense deducted and leasing payments taken into account in the computation of the sale price of the leased asset at the end of the lease contract; and
iii) the amount of interest paid to related parties exceeds the amount of interest received by the paying company from other directly or indirectly related parties.
A few exceptions may, however, apply.
A deduction for interest on a loan obtained to acquire a participation in another company may also be disallowed in the following circumstances:
i) if the acquisition involves jointly controlled companies and the acquired company enters into a group consolidation with the acquiring company (*Charasse rule*); or
ii) if the French borrowing company is unable to demonstrate that decisions on share-related transactions are made in France and that the acquired subsidiary is effectively managed in France or the EU or the EEA (*Carrez rule*, as recently modified by the finance law for 2018).
Independently of these specific rules, finance charges are capped at 75% of their net amount for FY 2014 (the "global cap on financial charges").
Finally, under French anti-hybrid rules, interest paid on a loan granted by an affiliated French company or a non-resident company is not deductible in the hands of the French borrower if the interest is not subject to a tax in the hands of the lending company that is equal to at least 25% of the tax that would have been due under the standard French tax rules.
[207] **GER:** Deduction of net interest expense is limited to 30% of taxable earnings before net interest expense, tax, regular depreciation and amortisation (tax EBITDA). Non-deductible interest expense is carried forward and may be deducted in future years; the carryforward is not time-limited but is subject to change-in-ownership rules. An unused tax EBITDA is carried forward for up to five years. The limitation on interest deduction does not apply where: i) the annual net interest expense is less than EUR 3 million (exemption threshold); ii) the taxpayer is not part of a group of companies (group clause) or iii) the taxpayer demonstrates that the equity ratio of the German borrower does not fall short by more than two percentage points from the equity ratio of the worldwide group (escape clause). The Supreme Tax Court *(Bundesfinanzhof)* has expressed doubts over whether the limitation on interest deduction is in line with the German constitution.
For municipal trade tax purposes, 25% of all interest expenses (and financing elements of leases and licences) exceeding an annual threshold of EUR 100,000 is non-deductible.
[208] **GIB:** No restriction if paid to a company, unless the loan is secured on a connected party who is an individual. If paid to an individual, interest paid is deemed to be a dividend where the debt:equity ratio is greater than 5:1 and i) interest is paid to a connected party which is not a company or ii) interest is paid to an arm's length party on a loan which is secured on assets belonging to a connected party which is not a company. Where interest is paid at above market rates, the excess is not allowable.
[209] **GRE:** Thin capitalisation and other restrictions on interest deductibility apply. Interest deductibility is linked to the interest rate (there is a statutory upper cap for non-bank, non-affiliate loans) and to EBITDA (the deductible net interest expense is limited to 30% of EBITDA plus any tax adjustments). The thin capitalisation rules do not apply to net interest expense up to EUR 3 million. The rate of interest on loans by affiliate entities is subject to transfer pricing restrictions (the statutory upper cap does not apply).
[210] **HUN:** Deemed interest expense is also subject to the thin cap rules. Interest paid to financial institutions is not taken into account when calculating the debt:equity ratio for thin cap purposes.

[211] **IRE:** There are some limited rules which can recharacterise interest as a non-deductible distribution.
[212] **ITA:** Net interest expense (i.e. net of interest income) is only deductible up to a maximum of 30% of gross operating profit (GOP) (i.e. the difference between value and cost of production as per letters A) and B) of article 2425 of the Italian Civil Code) plus amortisation and depreciation of assets (tangible and intangible) and finance lease payments made on fixed assets. Any excess interest expense is available for unlimited carryforward to offset 30% of GOP (plus amortisation and depreciation of assets and finance lease payments) of another year not fully absorbed by interest expense of the same period. Carryforward is allowed for the portion of GOP not fully used to absorb net interest expense in the same year. In that case, exceeding capacity in a given year will increase GOP of subsequent years. Companies included in a fiscal unity are permitted to offset the non-deductible excess amount against the 30% GOP not used by other entities in the consolidated group. From the tax period following the one in force as at 31 December 2016, full relief is available for the interest expenses of banks and other financial entities. Interest expense is 100% deductible from the CIT taxable base, with a 96% limit on deductibility only for insurance entities and their holding companies.
For financial years after the one closed on 31 December 2016, multinational groups (specifically an Italian parent company owning non-resident subsidiaries) can no longer include dividends paid by foreign entities in the GOP computation. This change is intended to align Italian domestic legislation with the EU ATAD directive. For FY 2016 only, multinational groups are permitted to include in the GOP calculation dividends received from non-resident subsidiaries in which the Italian resident company holds more than 50% of the votes that may be exercised in the ordinary shareholders' meeting of the subsidiary. For this purpose the legal/accounting notion of dividends should be relevant, regardless of any different classification of the income for tax purposes..
[213] **LAT:** Interest paid other than to credit institutions or registered financial companies, that are resident in the EU/EEA or a country with which Latvia has a double tax treaty in force, in excess of the greater of the two following amounts is taxable: i) interest in excess of 30% of EBITDA if interest payments exceed EUR 3 million and ii) interest calculated on a company's average debt in excess of four times opening equity. Equity restrictions do not apply to branches.
[214] **FRA:** Subject to thin cap rules, "*Carrez rule*", "Charasse rule" and "global cap on financial charges" (see "Are there restrictions on interest deductibility?" above).
[215] **GIB:** Provided subsidiary generates taxable income in HoldCo.
[216] **GRE:** If the dividend income from the subsidiary is exempt from tax at the level of HoldCo on the basis of the participation exemption, all related expenses (including interest on loans to acquire the participation in the subsidiary) are non-deductible in their entirety.
[217] **HUN:** Subject to thin cap and transfer pricing provisions.
[218] **IRE:** Relief is available for interest paid on qualifying loans, where the necessary conditions are met. There are anti-avoidance provisions which can deny relief in certain circumstances.
[219] **ITA:** Net interest expense (i.e. net of interest income) is only deductible up to a maximum of 30% of gross operating profit (GOP) (i.e. the difference between value and cost of production as per letters A) and B) of article 2425 of the Italian Civil Code) plus amortisation and depreciation of assets (tangible and intangible) and finance lease payments made on fixed assets. Any excess interest expense is available for unlimited carryforward to offset 30% of GOP (plus amortisation and depreciation of assets and finance lease payments) of another year not fully absorbed by interest expense of the same period. Carryforward is allowed for the portion of GOP not fully used to absorb net interest expense in the same year. In that case, exceeding capacity in a given year will increase GOP of subsequent years. Companies included in a fiscal unity are permitted to offset the non-deductible excess amount against the 30% GOP not used by other entities in the consolidated group. From the tax period following the one in force as at 31 December 2016, full relief is available for the interest expenses of banks and other financial entities. Interest expense is 100% deductible from the CIT taxable base, with a 96% limit on deductibility only for insurance entities and their holding companies.
For financial years after the one closed on 31 December 2016, multinational groups (specifically an Italian parent company owning non-resident subsidiaries) can no longer include dividends paid by foreign entities in the GOP computation. This change is intended to align Italian domestic legislation with the EU ATAD directive. For FY 2016 only, multinational groups are permitted to include in the GOP calculation dividends received from non-resident subsidiaries in which the Italian resident company holds more than 50% of the votes that may be exercised in the ordinary shareholders' meeting of the subsidiary. For this purpose the legal/accounting notion of dividends should be relevant, regardless of any different classification of the income for tax purposes.
[220] **EU/EEA:** For interest payments between directly associated companies in different EU Member States 0% withholding tax may apply, subject to satisfying the conditions in the EC Interest and Royalties Directive. 'Directly associated' companies are those where one has a direct minimum holding of 25% in the capital of the other, or a third EU company has a direct minimum holding of 25% in the capital of both companies. Transitional provisions apply to some Member States – see additional individual country notes for country specific requirements.
[221] **FRA:** A broad domestic exemption is available and the 0% rate applies irrespective of the location of the beneficiary. There is a fixed rate of 75% on interest paid out of France to a non-cooperative state or territory (NCST).
[222] **GER:** Under domestic law, interest on certain loans (securitised or registered loans or bonds, convertible bonds, profit-sharing bonds, participation loans, jouissance rights) is subject to a 26.375% withholding tax. However, tax treaties and the EC Interest and Royalties Directive take precedence over domestic law.
[223] **GIB:** There is no WHT on interest; however, intercompany interest receivable exceeding EUR 100,000 per annum is subject to taxation where such income is "accrued in or derived from" Gibraltar. Where a company registered in Gibraltar receives intercompany interest income, the interest it receives on all intercompany loans is automatically deemed to accrue in, or derive from, Gibraltar.
[224] **GRE:** 0% rate under EC Interest and Royalties Directive applies where the interest is paid by a Greek SA to an EU resident lender, who has held a 25% participation in the Greek payer of the interest for an uninterrupted period of at least 24 months. The 0% WHT also applies if the Greek SA pays interest to an EU resident subsidiary under the same

holding conditions and if interest is paid by a Greek SA to its immediate sister company, provided that the latter is an EU resident and the immediate parent holds at least 25% for a period over 24 months. No WHT exemption is available where the corporate structure lacks valid business reasons reflecting economic reality, in accordance with the EU anti-avoidance provisions.
[225] **HUN:** 0% rate applies irrespective of the rate specified in the tax treaty. 0% withholding tax does not apply to payments to individuals.
[226] **IRE:** In addition to tax treaties and the EC Directive, Ireland also has a broad range of domestic exemptions from interest withholding tax.
[227] **ITA:** Where the shares in the foreign subsidiary are categorised as "subsidiary shares", the subsidiary must be fully liable to local corporate taxation. Under Italian law, a general withholding tax of 26% applies to interest paid by an Italian entity to a foreign entity. Where the treaty rate exceeds 26%, the lower domestic rate applies.
[228] **LAT:** All interest payments to non-resident companies are exempt from withholding tax, other than payments to companies resident in countries and territories listed as low tax jurisdictions which are subject to withholding tax at 20%.
[229] **FRA:** Withholding tax may apply to liquidation payments to non-resident shareholders. Refund of the initial contribution is tax-free. The excess is treated as a deemed dividend, which may be subject to withholding tax depending on the wording of the applicable tax treaty.
[230] **GRE:** Liquidation proceeds in excess of paid in capital would be classified as a distribution of profits and subject to withholding tax at the appropriate rate under a relevant double tax treaty. Liquidation proceeds do not fall within the participation exemption rules.
[231] **ITA:** For non-resident shareholders, the excess of the liquidation payment over the purchase or subscription price of the shares is treated as a deemed dividend, subject to withholding tax.
[232] **LAT:** A liquidation of a Latvian company which results in a positive liquidation quota would be taxable.
[233] **EU/EEA:** A binding mandatory general antiabuse rule (GAAR) in the EC Parent-Subsidiary Directive (PSD) requires Member States to deny any tax exemption under the PSD for dividends received where the payment of the dividends resulted in a decrease in the taxable base of a distributing entity that is tax resident in another EU Member State. See additional individual country notes for country specific requirements.
[234] **GER:** For corporate income tax purposes, the 95% exemption requires a minimum shareholding of 10% of the company's share capital as at 1 January. For this purpose, single acquisitions of 10% or more during the calendar year are deemed to have taken place as at the beginning of that year. The exemption is denied to the extent the dividend has been deducted at the level of the distributing company, irrespective of tax treaty provisions. The tax exemption does not apply in certain exceptional cases, e.g. in the case of shares acquired on or after 1 January 2017, to holding companies in which banks directly or indirectly hold more than 50% provided the holding company records the shares as current assets upon initial recognition (in case of shares acquired before 1 January 2017, to holding companies which acquired the shares with the intention of realising a short-term profit from trading, irrespective of the ownership of the holding company; the “held for trading exception”), unless the EU Parent-Subsidiary Directive or a tax treaty provide otherwise.
The 95% trade tax exemption requires a minimum shareholding as at 1 January of 15% of the company's share capital (10% in respect of dividends from companies resident in another EU Member State). For dividends from non-EU companies, the minimum shareholding of 15% must be held from the beginning of the calendar year in which the distribution takes place and the foreign company must meet certain activity requirements. Tax treaty provisions prevail. The question of EU conformity of the rule on non-EU dividends was recently referred to the Court of Justice of the EU for a preliminary ruling.
Since 1 January 2017, the full tax credit for taxes withheld on dividends requires, amongst other conditions, a minimum holding period of 45 days within a period of 45 days before and after the date the dividend becomes due. The rule does not apply when the shares are not held in collective safe custody or when they are held for at least one year.
[235] **GRE:** Participation exemption applies to domestic dividends and to dividends received from qualifying EU participations. The minimum holding requirement is 10% for an uninterrupted period of 24 months. Dividends received during the 24-month period may be exempt, provided that a bank letter of guarantee is furnished to the Greek tax authorities equal to the amount of income tax that would had been due. For EU-sourced dividend income not qualifying for the above exemption, limited foreign tax credit is available, both for the tax withheld at source on the dividends and the underlying corporate income tax. No exemption is available where the profit distribution is derived from profits that are deductible at the level of the EU subsidiary. Where the dividend income is exempt from tax in Greece, any expenses incurred in relation to that income are not tax deductible for the Greek HoldCo.
[236] **HUN:** If the subsidiary is a CFC, dividends received by the Hungarian parent company and the undistributed profits of the CFC, are subject to Hungarian corporate tax at 9%.
[237] **IRE:** In many instances, the 12.5% tax rate for qualifying foreign dividends, combined with onshore pooling of foreign tax credits, can result in an effective dividend exemption for qualifying foreign dividends. Portfolio dividends (not more than a 5% shareholding/voting test) automatically qualify for the 12.5% tax rate and in some cases can qualify for complete tax exemption depending on the tax profile of the recipient company in Ireland. In addition, Ireland has a national dividend tax credit regime which further enhances Ireland's holding company regime and increases the range of situations where a de-facto participation exemption applies.
[238] **ITA:** Dividends are generally taxed on a cash basis. The 95% exemption applies if the dividends are paid by an Italian company or by a company in a "white list" country. Under the previous legislation in force before the International Decree, the full amount of dividends paid by entities located in black list countries to an Italian shareholder were taxed in Italy. The 95% exemption could be granted if the taxpayer provided proof (with the compulsory and preventive submission of a specific ruling to Italian Tax authorities) that the holding of the participation was genuine and it did not have the objective of locating income in a low-tax jurisdiction.

The International Decree has introduced substantial changes to the regulations. Firstly, the decree limits the subjective condition required to apply the black list dividends regime, establishing that only those dividends arising from: i) a direct participation (controlling or otherwise) in a black listed company or ii) a controlling interest in a non-black list entity which directly holds shares/quotas in one or more black list companies should be considered as "black list income".
Under the new rules, the preventive tax ruling intended to demonstrate the genuine nature of the investment is no longer mandatory and the taxpayer may instead provide the required evidence during the tax inspection.
The availability of indirect tax credits for taxes paid in the black list countries on earnings has also changed where the taxpayer does not apply the CFC rules as it can demonstrate that the participated entity carries on an effective industrial or commercial activity. Such indirect credits are now recognised retrospectively, including taxes paid by the controlled entity during the five fiscal years preceding FY 2015.
Where the CFC rules are not applied, the decree introduces an obligation for the taxpayer to disclose on its tax return the perception of profits from investments in foreign companies or entities located in countries or territories with favourable tax regimes.
[239] **LAT:** Profits are taxed only when distributed. Corporate income tax at 20% of the gross distribution (20/80 of the net amount) is payable by the payer of the dividend. Corporate income tax will not be charged on a redistribution of dividends if: i) the underlying dividends are received from a payer that is subject to corporate income tax in its country of residence or ii) such dividends have been subject to withholding tax in the distributing jurisdiction, in both cases provided that either: i) the payer is not from a black-list country or ii) the dividend is not treated as a tax deductible expense in the payer's jurisdiction of residence.
[240] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.
[241] **FRA:** Case law in respect of French anti-avoidance legislation must be taken into account. For example, the holding company must be a genuine and effective establishment and not a purely artificial arrangement. In addition, the grant of the benefits of the Parent-Subsidiary Directive (PSD) is denied if one of the main purposes of an arrangement is to obtain a tax advantage that would defeat the object or purpose of the PSD, and the arrangement is not genuine i.e., the 95% exemption on dividends received by French companies would be denied in such cases.
[242] **GER:** A foreign subsidiary which has no substance and whose interposition is not justified by economic or other bona fide reasons is usually disregarded for tax purposes. In certain cases of insufficient substance, low taxation and passive income, CFC taxation may apply.
[243] **GRE:** However, a general anti-avoidance rule (GAAR) applies under which the benefits of the EC Parent-Subsidiary Directive (i.e. income tax and withholding tax exemptions) will not be granted for intragroup dividends if the main purpose, or one of the main purposes, of the arrangement is to obtain a tax advantage and avoid taxation, and the arrangement and is not implemented for valid business reasons that reflect economic reality.
[244] **IRE:** The requirement to access the benefit of the 12.5% rate for foreign dividends is that the dividends concerned are received out of the trading profits of a foreign company that is resident in a EU Member State, a country with which Ireland has a tax treaty or a country which has ratified the Convention on Mutual Assistance in Tax Matters; or that the dividend is paid out of the trading profits of a non-EU or non-treaty resident company, provided the payer company is listed or is a 75% direct or indirect subsidiary of a company that is listed on a recognised stock exchange.
[245] **LAT:** Not in law but may be required by the tax authorities in practice and needs to be considered in international tax planning.
[246] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.
[247] **FRA:** The French Tax Code excludes from the parent-subsidiary exemption distributed profits which are deductible from the subsidiary's taxable income, as a result of the implementation into French law of the first amendment to the directive.
[248] **GER:** When the income tax burden of the foreign subsidiary on passive income is less than 25%, the German shareholder(s) may be subject to CFC taxation.
[249] **GRE:** The subsidiary must be subject to tax in its country of residence (a condition of the EC Parent-Subsidiary Directive).
[250] **LAT:** Must be tax resident in country of operation.
[251] **FRA:** Under the EC Parent-Subsidiary Directive regime, dividends received by French companies may benefit from a 95% tax exemption provided certain conditions are satisfied. The shares must have been held for two years. If the shares are sold before the end of the two-year period, the holding company is subject to corporate income tax on the initially exempt dividends.
A 3% surtax was levied on dividend distributions and deemed dividends paid by French entities subject to corporate income tax. However, the surtax has been declared unconstitutional. As a consequence, as from 8 October 2017, the surtax must no longer be levied. It has been removed from the French legal system by the finance law for 2018.
[252] **GER:** Generally, the required minimum percentage ownership for the 95% tax exemption needs to be held as at 1 January. For trade tax purposes, the minimum percentage ownership in non-EU subsidiaries must be held continuously since 1 January.
[253] **GRE:** Dividends received during the 24-month period may be exempt, provided that a bank letter of guarantee is furnished to the Greek tax authorities equal to the amount of income tax that would had been due.
[254] **FRA:** For dividend distributions on or after 3 February 2016, the 5% voting power requirement no longer applies, there is purely a 5% shareholding requirement.
[255] **GER:** For municipal trade tax purposes, the minimum percentage ownership is reduced to 10% for holdings in subsidiaries in other EU Member States.

[256] **IRE:** No minimum participation in companies resident in Ireland. In respect of dividends received from EU companies, the 5% ownership threshold can be relevant in being able to claim credit relief for both direct withholding taxes and underlying taxes borne on profits from which dividends are paid, which can be traced through tiers of companies in a group structure, no matter where the companies are tax resident. In respect of dividends received from companies in a jurisdiction with which Ireland has a double tax treaty (DTT), credit relief may be available for both direct withholding taxes and underlying taxes borne on profits from which dividends are paid. The relevant ownership percentage requirement varies by treaty. In respect of dividends received from companies in non-EU/non-DTT jurisdictions, unilateral relief may be available. Generally there is a minimum 5% ownership requirement for such relief.
[257] **FRA:** Capital gains on the disposal of shares in unlisted real estate companies are taxed at 33.33%. Gains on the disposal of shares in listed real estate listed companies are taxed at 19% if the shares are held for more than two years. Capital gains on the disposal of shares in companies listed in a NCST are excluded from the 88% exemption unless it is possible to prove that the company is an effective and genuine establishment.
[258] **GER:** Capital gains on the sale of shares are fully taxable at the normal corporate income and trade tax rates up to the amount of earlier write-downs that reduced the taxable income (permitted under previous tax legislation). The 95% exemption is not granted in certain circumstances, e. g. in case of shares acquired on or after 1 January 2017, to holding companies in which banks directly or indirectly hold more than 50% provided the holding company records the shares as current assets upon initial recognition (in case of shares acquired before 1 January 2017, to holding companies which acquired the shares with the intention of realising a short-term profit from trading, irrespective of who is/are the owner of the holding company; the "held for trading exception").
[259] **GIB:** There is no capital gains tax in Gibraltar.
[260] **GRE:** Capital gains from the sale of listed and unlisted shares are taxed at 29% as normal business profits.
[261] **HUN:** Capital gains realised on the sale and in-kind contribution of participations acquired on or after 1 January 2007 are tax exempt if the following requirements are met: i) the shareholding is at least 10%; ii) the taxpayer has reported the acquisition within 75 days to the Hungarian tax authorities and iii) the shares have been held by the taxpayer for at least one year. The provisions apply to participations in both domestic and foreign entities. Any capital loss or provision for diminution in value of such holdings is added back when calculating the tax base. If the foreign subsidiary is a CFC, the participation exemption for capital gains is not applicable. As of 1 January 2018, the minimum 10% shareholding requirement will be excluded from the definition of the participation exemption.
[262] **IRE:** Exemption applies to shareholdings of at least 5% in "subsidiary" companies resident in the EU or countries with which Ireland has a tax treaty provided certain conditions are met e.g. trading status of subsidiary or group. Other capital gains are normally taxed at an effective rate of 33% where HoldCo is Irish resident at the date of disposal. In calculating the gain, the acquisition cost is increased for inflation from the date of acquisition or its market value on 6 April 1974, if later, up to 31 December 2002. Qualifying costs of acquisition and disposal are also deducted in arriving at the taxable gain. Where a subsidiary, being a company resident in an EU Member State, is dissolved without going into liquidation and all its assets are transferred to its parent, this will not be regarded as a disposal of the shares in the subsidiary by the parent.
[263] **ITA:** For the participation exemption to apply: i) the participation must have been booked as an investment in the first financial statements closed after the acquisition; ii) the shares must have been held for at least 12 months and iii) the company in which the shares are owned must have been resident in a "white list" country and have carried on an operating business for the last three tax periods preceding the sale.
[264] **LAT:** Profits are taxed only when distributed. Corporate income tax at 20% of the gross distribution (20/80 of the net amount) is payable by the payer of the dividend. Capital gains from the sale of shares are exempt from tax provided that, at the time of the disposal, the shares have been held directly for not less than 36 months and the purpose of establishing the taxpayer or a related person or carrying out the sale arrangement was not to obtain a tax advantage. The exemption does not apply to capital gains from the sale of shares of companies located in blacklist jurisdictions.
[265] **GRE:** Capital losses from the disposal of domestic or foreign participations are in principle deductible.
[266] **ITA:** Capital losses are generally only deductible on the disposal of participations not qualifying for the participation exemption.
[267] **LAT:** Corporate income tax applies only to distributed profits.
[268] **IRE:** A negligible value claim must be made. If the participation exemption applies, the loss is not deductible.
[269] **LAT:** Impairment of value has no tax effect.
[270] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.
[271] **FRA:** Case law in respect of French anti-avoidance legislation must be taken into account. For example, the holding company must be a genuine and effective establishment and not a purely artificial arrangement.
[272] **GER:** A foreign subsidiary which has no substance and whose interposition is not justified by economic or other bona fide reasons is usually disregarded for tax purposes (anti-abuse rule).
[273] **IRE:** The subsidiary must be wholly or mainly a trading company, or alternatively, where this test cannot be satisfied, a 51% group trading test can instead be relied on to take advantage of the Irish CGT participation exemption.

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[274] **ITA:** Under the previous legislation in force before the International Decree, capital gains realised by an Italian entity on the sale of interests in black list entities were taxable in full in Italy. A 95% exemption could be granted if the taxpayer provided proof (with the compulsory and preventive submission of a specific ruling to the Italian Tax authorities) that the holding of the participation was genuine and it did not have the objective of locating income in a low-tax jurisdiction.
The International Decree has introduced substantial changes to the regulations. Firstly, the decree limits the subjective condition required to apply the black list dividends regime, establishing that only those dividends arising from: i) a direct participation (controlling or otherwise) in a black listed company or ii) a controlling interest in a non-black list entity which directly holds shares/quotas in one or more black list companies should be considered as "black list income".
Under the new rules, the preventive tax ruling intended to demonstrate the genuine nature of the investment is no longer mandatory and the taxpayer may instead provide the required evidence during the tax inspection.
The availability of indirect tax credits for taxes paid in the black list countries on earnings has also changed where the taxpayer does not apply the CFC rules as it can demonstrate that the participated entity carries on an effective industrial or commercial activity. Such indirect credits are now recognised retrospectively, including taxes paid by the controlled entity during the five fiscal years preceding FY 2015.
Where the CFC rules are not applied, the decree introduces an obligation for the taxpayer to disclose on its tax return the perception of profits from investments in foreign companies or entities located in countries or territories with favourable tax regimes.
[275] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.
[276] **ITA:** For participations in black list entities no participation exemption regime applies, unless a positive ruling is obtained.
[277] **FRA:** An anti-abuse provision prevents the generation of a tax-deductible short term capital loss arising from the sale of shares to another corporate member of the same tax group.
[278] **IRE:** Disposal must occur in an uninterrupted period of not less than 12 months throughout which HoldCo directly or indirectly holds at least 5% of the shares in that company.
[279] **ITA:** 12 months for participation exemption to apply.
[280] **FRA:** The 5% shareholding must also confer 5% of the voting power.
[281] HUN: As of 1 January 2018, the minimum 10% shareholding requirement will be excluded from the definition of the participation exemption.
[282] **IRE:** Limited reliefs are available for losses, certain interest costs and management expenses, and for capital gains groups but there are no provisions for consolidation of income. The system available is known as "group relief" in Ireland.
[283] **NL:** An advance ruling can be obtained if the group has sufficient activities in the Netherlands or if HoldCo meets the substance requirements.
[284] **NOR:** Advance rulings describing the tax consequences of specific actions are generally available if clarification of the tax consequences is of vital importance to the taxpayer.
[285] **POL:** Rulings are generally issued within three months by the tax authority. The level of protection provided by the ruling differs depending upon when the ruling was received. Full protection is given only if the ruling was obtained in advance of the events to which it relates. Rulings should not generally be issued with regard to events raising a justified suspicion that they may be subject to the general anti-avoidance rule (GAAR) or may constitute an abuse of law under the VAT provisions. Instead, taxpayers may apply for a protective opinion in respect of a planned transaction and such opinions will be issued if the circumstances indicate that the GAAR does not apply in the specific case.
From 1 January 2017 compliance with tax explanations issued by the tax authority or established practice resulting from the tax rulings issued for other taxpayers in identical situations should also grant a certain level of protection. In theory, this protection should be similar to the situation where a ruling is obtained; however, owing to the limited practice in this area there are practical concerns as to whether this will actually be the case.
[286] **ROM:** Advance rulings can be issued in respect of a taxpayer's future operations. In practice, rulings are issued if the taxpayer prepares the proper documentation. Only Romanian registered taxpayers may apply. The cost of applying for an advance ruling is between EUR 3,000 - EUR 5,000 and a response is typically received in around three months.
[287] **LUX:** Companies incorporated as an SPF (private wealth management company) are prohibited from carrying out commercial activities as defined in Luxembourg income tax law.
[288] **POL:** A limited number of specific activities may require a permit, licence etc.
[289] **LIT:** Minimum share capital requirements are EUR 2,500 for a private limited liability company (less than 250 shareholders) and EUR 25,000 for a public limited liability company. The Register of Legal Persons can initiate the liquidation of a company suspected of having no substance (e.g. if a company does not file financial statements for a period in excess of 24 months).
[290] **LUX:** A Luxembourg company is considered as a Luxembourg resident when its registered office or central place of administration is located in Luxembourg.
[291] **MAL:** A Maltese private company must have a registered office in Malta and at least two shareholders (unless it is a private exempt company for company law purposes), one director and one company secretary. In practice, however, so as to defend against a claim from any third countries in connection with the tax residence of a Malta company, one would typically, at minimum, expect to see the following additional elements: i) a majority of the directors should be Malta resident individuals; ii) board meetings should be physically held in Malta; iii) maintenance of official minutes and accounting records in Malta; iv) properly equipped office space in Malta and v) sufficient human and technical resources in Malta to carry on its day-to-day business.

[292] **NL:** Financial service entities must report on their annual income tax returns whether they satisfy substance requirements. Financial service entities are Dutch resident taxpayers whose activities during a year consist mainly of paying or receiving interest, royalties, rent or lease instalments to or from entities not established in the Netherlands that belong to the same group as the taxpayer. Activities relating to the holding of participations are excluded from this assessment. If a financial service entity fails to satisfy the substance requirements and a tax treaty with the Netherlands has been applied abroad or the taxpayer has invoked the EC Interest and Royalties Directive or a national provision implementing the Directive, the Dutch tax authorities will automatically provide the relevant information about the taxpayer to the foreign jurisdiction.

[293] **POL:** In general, there are no specific tax regulations in Poland related to substance requirements. However, an anti-abuse clause applies to dividends (and other rights related to profits of corporate entities) received and distributed by Polish taxpayers which may result in a loss of the right to benefit from the corporate income tax/withholding tax exemption. It is possible that the provisions may be applied where the particular holding company does not possess relevant substance (especially in light of the official position of the Minister of Finance from November 2017). The general anti-avoidance rule (GAAR) could also be applicable. As a consequence, use of a holding company (either Polish or foreign) without relevant substance may be perceived as lacking the relevant business rationale and as such, leading to the application of an anti-abuse clause to dividend receipts or distributions.

In addition, use of a holding company (either Polish or foreign) without relevant substance may result in a challenge to the applicability of lower WHT rates/WHT exemptions based on double tax treaties containing "beneficial ownership" requirements as well as the Polish implementation of the EC Interest and Royalties Directive (which from 2017 also explicitly contain the "beneficial ownership" requirement).

[294] **LUX:** A registration fee of EUR 75 is imposed on incorporation or amendments to bylaws.

[295] **POL:** Increases in share capital relating to certain restructuring transactions are transfer tax exempt.

[296] **LUX:** An SPF (private wealth management company) is prohibited from carrying out commercial activities as defined in Luxembourg income tax law. It is strictly limited to the acquisition, holding and sale of financial assets. An SPF is prohibited from involvement in the management of any company of which it holds shares, even if it is a majority stake.

[297] **MAL:** Provided that the holding qualifies as a participating holding and satisfies certain limited anti-abuse conditions, dividends received in respect of the holding, plus any gain on the disposal of all or part of the holding, are exempt from tax in Malta. The participation exemption regime is also applicable to profits and gains derived by a Maltese company which are attributable to a PE situated outside Malta, or to the transfer thereof. The profits and gains are to be calculated as if the PE is an independent enterprise operating in similar conditions and at arm's length.

[298] **PT:** There is a special tax regime effective in the Autonomous Region of Madeira Trade Zone which is not covered in more detail here.

[299] **ROM:** There is no specific holding company legislation but the tax legislation does provide for some favourable treatment for holding companies. The Romanian authorities intend to introduce a special law for holding companies but no specific date has been set for doing so.

[300] **NL:** No specific CFC legislation but general anti-avoidance measures (non-applicability of the participation exemption) apply to low taxed portfolio investment companies/permanent establishments.

[301] **POL:** A participating Polish taxpayer is subject to tax at 19% on income generated by a CFC, broadly defined as an entity: i) whose registered office is located in country deemed to be a tax haven or ii) whose registered office is located in a country with which Poland or the European Union has not signed an agreement for the exchange of tax information or iii) which meets certain criteria specified in the relevant Polish tax legislation (e.g. at least 33% of its revenues for a given tax year are passive revenues).

[302] **ROM:** From 1 January 2018, Romanian corporate income tax payers that control a foreign company must include certain income from the CFC in their taxable base. A CFC is an entity or permanent establishment that satisfies both of the following conditions: i) the Romanian corporate income tax payer directly or indirectly holds at least 50% of the capital of the foreign company capital or has the right to receive at least 50% of its profits; and ii) the corporate income tax effectively paid by the foreign entity is less than the difference between the corporate income tax that would have been imposed in Romania in accordance with Romanian tax rules and the corporate income tax effectively paid. The income of the CFC to be included in the taxable base of the Romanian corporate income taxpayer include: interest, royalties, dividends and capital gains; finance lease income; income from insurance and banking activities; and income from invoicing companies that earn sales and services income from goods and services purchased from and sold to associated enterprises, but which add no or little economic value. The amount of CFC income included in the taxable base of the corporate income taxpayer is proportionate to its participation in the controlled entity.

[303] **LIT:** 5% is applicable to: i) taxable profits of entities whose average number of employees does not exceed 10 and whose income during the tax period does not exceed EUR 300,000 (if some other conditions are fulfilled; first year - 0%); and ii) taxable profit from commercialisation of R&D.

[304] **LUX:** The Municipal Business Tax rate varies according to the commune in which the undertaking is located. The rate quoted in the matrix is for Luxembourg City, where the effective income tax rate is 26.01%.

[305] **MAL:** Provided that the holding qualifies as a participating holding and satisfies certain limited anti-abuse conditions, dividends received in respect of the holding, plus any gain on the disposal of all or part of the holding, may be exempt from tax in Malta provided that the holding company has elected to apply the Malta participation exemption. Alternatively, by virtue of the operation of the full imputation system and Malta's tax payment and refund system, while companies are taxed in Malta at a rate of 35%, any shareholder of a Malta company is, upon a dividend distribution in its favour, entitled to claim a refund of a portion (typically 6/7ths) of the Malta tax so paid, resulting in a combined effective tax rate in Malta of approximately 5%. The refund is not available with respect to income derived from, directly or indirectly, immovable property situated in Malta.

[306] **NL:** 20% on income up to EUR 250,000, 25% on income above EUR 250,000. The 20% tax rate bracket will be increased to EUR 300,000 from 2020 and EUR 350,000 from 2021. The tax rate may be progressively reduced to 16% on income up to EUR 350,000 and to 21% on income above EUR 350,000 from 2021.
[307] **NOR:** The corporate tax rate for FY18 is 23% (reduced from 24%).
[308] **POL:** The standard rate is 19%. The reduced 15% rate applies to small enterprises (i.e. companies with gross sales revenue for the preceding year not exceeding EUR 1.2 million) and to companies commencing new businesses in their first year of operations.
[309] **PT:** Taxable income is subject to corporate income tax at the rate of 21%, increased by a municipal surcharge of up to 1.5% levied on taxable profit.
A state surcharge applies at the rate of 3% on taxable profits between EUR 1.5 million and EUR 7.5 million; 5% on taxable profits between EUR 7.5 million and EUR 35 million; and 9% on profits in excess of EUR 35 million. Together with the 1.5% municipal surcharge, the final maximum aggregate tax rate for 2018 is 31.5%.
The first EUR 15,000 of taxable income of small and medium-sized companies is subject to tax at the rate of 17%.
[310] **ROM:** The standard corporate income tax rate is 16%. The effective rate will depend on the accounting result and subsequent fiscal adjustments. The tax rate on dividend income is 5%.
[311] **MAL:** With effect from the year of assessment 2018, qualifying undertakings established in Malta are entitled to a notional interest deduction (NID) on their qualifying capital (e.g. share capital, share premium, interest-free debt, positive retained earnings), which is capped at 90% of taxable income, with any excess being carried forward to be deducted against taxable income derived in future years.
[312] **PT:** Companies may benefit from an annual 7% notional interest deduction (NID) calculated based on increases in the company's share capital since 1 January 2017, up to a maximum of EUR 2 million, provided no capital reduction (with a corresponding payment to shareholders) is carried out in the same year, or in the five subsequent years. Eligible capital increases include cash contributions and conversions of shareholders' loans, as well as credits converted into capital. The NID applies in the year in which the capital increase occurs and in the subsequent five years.
[313] **LUX:** Luxembourg does not generally tax capital gains realised by non-residents. However, if HoldCo is not incorporated as an SPF, and in the absence of a tax treaty allocating the taxation right to the country of residence of HoldCo's shareholder, Luxembourg may tax the capital gain in either of the following circumstances: i) the non-resident investor acquires a substantial participation of more than 10% in the share capital of HoldCo and disposes of all or part of the holding within six months of purchase or ii) the investor owns more than 10% during the five-year period preceding the disposal in the share capital of HoldCo, if the investor was a Luxembourg resident taxpayer for more than 15 years and became non-resident less than five years before the disposal of the shares.
[314] **MAL:** Provided that the Malta HoldCo does not, directly or indirectly, own immovable property situated in Malta and that none of the non-resident beneficial owners is owned and controlled by, directly or indirectly, or acts on behalf of any individual who is ordinarily resident and domiciled in Malta.
[315] **NL:** If the participation in the BV represents a substantial interest (at least 5% of the subscribed capital) and the main purpose, or one of the main purposes, of the foreign entity for holding the substantial interest is the avoidance of Dutch personal income tax and, at the same time, the (series of) arrangement(s) or the set of transactions is considered artificial, capital gains on the disposal of HoldCo shares may be subject to 25% corporate income tax in the Netherlands. Valid business reasons may be deemed to be considered not artificial and in such circumstances, additional substance requirements should be met. If a tax treaty or directive applies, it would generally allocate taxing rights on capital gains derived on shares in BVs to the country of residence of the recipient (i.e. not the Netherlands).
[316] **POL:** A broad real estate clause provides that capital gains arising on the disposal by a non-Polish tax resident of shares in a Polish company are taxed in Poland (subject to a relevant tax treaty) where at least 50% of the Polish company's assets consist, directly or indirectly, of real estate or rights to real estate located in Poland. Generally, this also applies to a situation where a subsidiary of a Polish holding company whose shares are disposed of owns real estate in Poland.
[317] **PT:** Capital gains are, however, taxed at 25% if: i) a shareholder is domiciled in a listed tax haven; ii) HoldCo is a real estate company or holds a controlling shareholding, either directly or indirectly, in real estate companies or iii) if 25% of the capital of the shareholder is held (directly or indirectly) by Portuguese resident entities. With regard to limitation iii), a shareholder held (directly or indirectly) by a Portuguese resident entity may still benefit from the exemption if all of the following requirements are met, namely that the non-resident parent company disposing of the Portuguese HoldCo: a) is domiciled in the EU, in a state with which Portugal has concluded a double tax treaty, provided that such treaty is actually in force and foresees exchange of information or in the EEA (in the latter case, subject to the condition that there is an administrative cooperation agreement in place equivalent to the EU standard); b) is subject to (and not exempt from) income tax at a rate which is equivalent to at least 60% of the Portuguese corporate tax rate (EU-resident parent companies must be subject to (and not exempt from) a tax listed in the EC Parent-Subsidiary Directive); c) owns a participation (directly or indirectly) of at least 10% in the HoldCo for one year prior to the disposal and d) is not part of an artificial structure with the main objective of obtaining a tax advantage.
[318] **ROM:** Income derived from the disposal of shares is tax-exempt if the non-resident shareholder has owned at least 10% of the shares in HoldCo for at least one year and is resident in a country that has concluded a double tax treaty with Romania. Where tax is payable, relief is generally available under a relevant tax treaty.
[319] **EU/EEA:** In accordance with the terms of the EC Parent-Subsidiary Directive (PSD), distributions of profits (other than on a liquidation) to a parent company in one Member State by a subsidiary in another Member State are generally exempt from withholding tax provided a minimum 10% shareholding requirement is met. Member States have some flexibility over the implementation of the Directive – see additional individual country notes for country specific requirements.

A binding mandatory general antiabuse rule (GAAR) included in the PSD requires Member States to deny the dividend withholding tax exemption under the PSD in cases of tax avoidance – see additional individual country notes for country specific requirements.

[320] **LIT:** Dividends are subject to 15% withholding tax unless the participation exemption applies. Under the participation exemption, dividends are exempt from corporate income tax if the parent company holds at least 10% of the shares of the dividend paying company continuously for at least 12 months (including the moment of distribution of dividends). It should be noted that according to the official Commentary of the Lithuanian Law on Corporate Income Tax, the participation exemption might also be applicable if at the moment of dividend distribution the parent company holds the shares for the period shorter than 12 months, but it intends to hold these shares for at least 12 months and later in fact fulfils this requirement. The participation exemption does not apply if the foreign entity is established in a tax haven or where the main or one of the main purposes of the structure is to obtain a tax advantage, and there is not a reasonable commercial purpose reflecting economic reality (after assessing all relevant facts and circumstances). Dividends paid to individual shareholders are subject to personal income tax of 15%, withheld at source by the payer.

[321] **LUX:** Dividends paid to a non-resident company are generally subject to a 15% withholding tax unless the rate is reduced under an applicable tax treaty. No tax is withheld on dividends paid to a qualifying company under the EC Parent-Subsidiary Directive. No withholding tax is levied on dividends distributed by a Luxembourg company to a parent company located in a treaty country if conditions similar to those in the Luxembourg participation exemption regime are satisfied. The requirements for the exemption are that the parent company: i) holds at least 10% of the company paying the dividends or a participation acquired for at least EUR 1.2 million; ii) holds or commits to hold the shares for an uninterrupted period of at least one year; iii) has a legal form similar to the one of the forms listed in the Luxembourg corporate income tax code and iv) is subject to a tax similar to the Luxembourg corporate income tax. There is no withholding tax on dividends distributed by an SPF.

[322] **LUX:** Luxembourg has transposed the common anti-abuse rule in the EC Parent-Subsidiary Directive into its domestic law.

[323] **MAL:** A 15% withholding tax exists with respect to dividends paid out of certain untaxed profits (i.e. this does not apply to profits exempt under the participation exemption regime) to non-residents that are owned and controlled by, directly or indirectly, or act on behalf of any individual who is ordinarily resident and domiciled in Malta.

[324] **MAL:** Malta has transposed the anti-hybrid mismatch rule and the general anti-avoidance rule pursuant to the amendments to the EC Parent-Subsidiary Directive into its domestic law.

[325] **NL:** *For Coop:* Dividend distributions from a Dutch Coop which is actively engaged in operational activities are generally not subject to dividend withholding tax, unless the main purpose of the Coop is to avoid withholding tax on dividends and the member of the Coop holds the membership as a passive investment. A General Anti-Abuse Rule (GAAR) applies, similar to the GAAR in the EC Parent-Subsidiary Directive. The GAAR does not apply to Coops with a real economic function. A Coop that carries on an active business would be considered to perform a real economic function.

For Holding Coops and BV/NV: Holding Coops and BV/NV are subject to Dutch dividend withholding tax. The exemption from Dutch dividend withholding tax is expanded as from 1 January 2018 for entities established in Europe and for entities who are tax residents in accordance with an applicable treaty, which contains a regulation for dividends. However, under the anti-abuse rule, if the participation in the BV represents a substantial interest (at least 5% of the subscribed capital) and the main purpose, or one of the main purposes, of the foreign entity for holding the substantial interest is the avoidance of Dutch dividend withholding tax subject to another person or entity and, at the same time, the (series of) arrangement(s) or the set of transactions is considered artificial, the exemption from Dutch dividend withholding tax will not be granted..

[326] **NOR:** A 23% tax charge on 3% of the dividend paid (effective tax rate of 0.69%), may be levied if the non-resident shareholder carries out taxable activities in Norway, typically through a branch, and the shares are held in order to benefit the taxable activities.

[327] **NOR:** Exempt to EEA countries, provided that the corporate shareholder has sufficient substance. A 24% tax charge on 3% of the dividend paid (effective tax rate of 0.72%), may be levied if the non-resident shareholder carries out taxable activities in Norway, typically through a branch, and the shares are held in order to benefit the taxable activities.

[328] **POL:** Exempt under the EC Parent-Subsidiary Directive, provided the beneficiary holds directly at least a 10% shareholding in the Polish company for an uninterrupted period of at least two years (which need not be satisfied prior to the date of payment of the dividend). The exemption may be applied where the dividend recipient is not exempt from income taxation on its worldwide income, the shares are owned by the recipient of the dividend and the dividend is received from shares that, in principle, are owned by the dividend recipient. The same rules apply to EEA countries (although it is unclear if they apply to Liechtenstein). Dividends paid to a Swiss company are also exempt, subject to a 25% holding requirement. From 1 January 2018, certain limitations apply to the exemption (e.g. it does not apply to revenue from the redemption of shares or liquidation proceeds).

An anti-abuse clause applies to dividends received and distributed by Polish taxpayers which may result in a loss of the right to benefit from the corporate income tax/withholding tax exemption.

[329] **PT:** Dividends distributed to entities located in a listed tax haven (and paid or made available in bank accounts of one or more shareholders where the identity of the ultimate beneficial owner is undisclosed) are subject to an increased withholding tax rate of 35%, compared to the general 25% withholding tax rate levied in Portugal on dividends paid to non-resident entities where the participation exemption does not apply and no treaty is applicable.

Under the Portuguese participation exemption regime, dividends paid by a resident company to: i) a resident company; ii) a company resident in the EU; iii) a company resident in a state with which Portugal has concluded a double tax treaty, provided that such treaty is actually in force and foresees exchange of information or iv) in the EEA, provided that there is an administrative cooperation agreement in place equivalent to the EU standard, are exempt from tax, provided the recipient is not considered a transparent entity and has held (directly or indirectly) at least 10% of the capital (or voting rights) of the other company for an uninterrupted period of at least 12 months. The non-resident parent company must be subject to (and not exempt from) income tax at a rate which is equivalent to at least 60% of the Portuguese corporate tax rate. EU-resident parent companies must be subject to (and not exempt from) a tax listed in the EC Parent-Subsidiary Directive. The above will not apply when the distributing entity does not comply with the relevant reporting obligations applicable in Portugal concerning its ultimate beneficial owners (UBOs), or when those UBOs are resident in a listed tax haven, except where it is demonstrated that the UBOs are not part of a structure the objective of which is to obtain a tax advantage.

[330] **PT:** Dividends distributed to entities located in a listed tax haven (and paid or made available in bank accounts of one or more shareholders where the identity of the ultimate beneficial owner is undisclosed) are subject to an increased withholding tax rate of 35%, compared to the general 25% withholding tax rate levied in Portugal on dividends paid to non-resident entities where the participation exemption does not apply and no treaty is applicable.

Under the Portuguese participation exemption regime, dividends paid by a resident company to: i) a resident company; ii) a company resident in the EU; iii) a company resident in a state with which Portugal has concluded a double tax treaty, provided that such treaty is actually in force and foresees exchange of information or iv) in the EEA, provided that there is an administrative cooperation agreement in place equivalent to the EU standard, are exempt from tax, provided the recipient is not considered a transparent entity and has held (directly or indirectly) at least 10% of the capital (or voting rights) of the other company for an uninterrupted period of at least 12 months. The non-resident parent company must be subject to (and not exempt from) income tax at a rate which is equivalent to at least 60% of the Portuguese corporate tax rate. EU-resident parent companies must be subject to (and not exempt from) a tax listed in the EC Parent-Subsidiary Directive. The above will not apply when the distributing entity does not comply with the relevant reporting obligations applicable in Portugal concerning its ultimate beneficial owners (UBOs), or when those UBOs are resident in a listed tax haven, except where it is demonstrated that the UBOs are not part of a structure the objective of which is to obtain a tax advantage.

[331] **ROM:** Dividends paid by HoldCo are exempt under the EC Parent-Subsidiary Directive transposed in the domestic legislation if: i) the parent company has a minimum 10% shareholding in the HoldCo and ii) the minimum shareholding has been held for one year at the date when the dividends are paid and the other conditions of the Directive are observed (i.e. the beneficial owner is resident in an EU Member State, has one of the legal forms provided by the Annex to the Directive, is a corporate income tax payer in its country of residence, without the possibility of an option or exemption). In order to claim the benefits of the EC Parent-Subsidiary Directive, the non-resident income beneficiary should make available to the Romanian income payer a fiscal residency certificate, valid as at the date of the payment and an affidavit attesting that the conditions imposed by the Directive are fulfilled. The applicable rate will be the most favourable of the rates provided by domestic legislation, tax treaty or EU directive. If at the date of payment of the dividends, the minimum holding period requirements have not been met, the dividend will be subject to taxation under Romanian legislation, taking account of the provisions of the relevant double tax treaty. Subsequently, in the fiscal year in which the condition is fulfilled, the beneficiary of the income may request reimbursement of the excess tax paid. The 5% rate applies on EU/EEA dividends only where the conditions for exemption under the EC Parent-Subsidiary Directive are not met and there is no applicable tax treaty.

Recent legislative changes provide that in case of artificial transactions, the tax authorities can refuse to apply a double tax treaty concluded between Romania and other states for transactions without economic substance. Artificial transactions are defined as a transaction or series of transactions that have no economic substance and cannot be normally used within ordinary business practices, performed for the purpose of tax avoidance or for obtaining tax advantages that otherwise would not be granted.

[332] **LIT:** Arm's length interest is generally tax deductible. Interest expenses incurred on a controlled debt are not deductible for Lithuanian corporate income tax purposes. Under Lithuanian thin capitalisation rules, a controlling lender is one who at the end of the Lithuanian company's tax year: i) directly or indirectly holds more than 50% of the shares or rights in respect of dividends of the Lithuanian company or ii) together with related parties, holds more than 50% of the shares or rights in respect of dividends of the Lithuanian company, where the creditor's holding is not less than 10%. Members of the group of a controlling lender are also regarded as controlling lenders. A controlled debt exists when there is a debt from a controlling lender (including a debt from third parties guaranteed by the controlling lender and a debt guaranteed by a third party if this third party has a guarantee from the controlling lender) and the debt to equity ratio exceeds 4:1 (only the excess part is treated as a controlled debt). The ratio is computed as at the end of the relevant tax year but the equity does not include the result for that year. However, under Lithuanian tax legislation, the thin capitalisation provisions will not be applied if the Lithuanian subsidiary can prove that the arm's length nature of the transaction is preserved.

Payments made by a Lithuanian entity to a foreign entity registered or otherwise organised in blacklisted territories shall be treated as non-deductible expenses, except where the Lithuanian entity can prove that such payments are related to the usual activities of the payer and recipient entity, the recipient entity controls the assets required to perform such usual activities and there is a direct link between the payment and the economically-founded transaction.

[333] **LUX:** Safe haven debt:equity ratio of 85:15. There is no thin cap limit for an SPF but the annual subscription tax is due on the amount of debt exceeding eight times the paid-up capital and share premium.

[334] **MAL:** A specific interest deduction limitation exists with respect to interest paid to non-resident related persons, directly or indirectly in connection with immovable property situated in Malta or any right thereon, where the interest is exempt from tax under Maltese law.

[335] **NL:** There are no general restrictions but see note to "Is interest on loans to acquire subsidiaries deductible against HoldCo's profits?" for details of restrictions on interest deductibility with respect to specific transactions.

[336] **NOR:** Net interest expenses to a related party exceeding 25% of an adjusted EBITDA for tax purposes will not be tax deductible, where net interest expenses (external and intragroup) exceed NOK 5m. The limitation is applied on an entity by entity basis and net interest expenses in excess of the limitation may be carried forward for deduction in the following ten years. In addition, the arm's length principle applies both with regard to thin capitalisation and debt pricing. The Ministry of Finance has proposed to extend the

scope of the rules to also comprise external interest and include group equity escape clauses. The proposal is currently under consultation and is expected to become effective for the income year 2019.

[337] **POL:** From 1 January 2018, Poland implemented interest deductibility restrictions resulting from the EU Anti-tax Avoidance Directive (ATAD 1). The provisions restrict deductibility of "a surplus of debt financing costs" (including also financing from unrelated entities) above 30% of tax EBITDA (calculated as the excess of revenue, less interest income, over the sum of tax costs, decreased by depreciation write-offs and debt financing costs. For the purpose of calculating the surplus, restrictions related to intangibles and intangible services are disregarded). Only the surplus over PLN 3 million in a given year will be subject to the restrictions, debt financing costs below this limit are deductible in full for tax purposes under general rules without any reference to the tax EBITDA. Excess debt financing costs which have not been deducted for tax purposes in a given tax year can be carried forward for up to five tax years (subject to the applicable limits). These rules apply to loans actually disbursed on or after 1 January 2018.

Generally, for loans in effect prior to 1 January 2018, the following rules apply until the end of 2018. Thin capitalisation restrictions provide for a 1:1 debt:equity ratio. A portion of the interest on loans granted by directly or indirectly related parties exceeding such ratio will be non-deductible. A taxpayer can instead opt for an alternative method to determine the limit on tax-deductible interest. Under the alternative method, deductible interest may not exceed: i) the value of the taxpayer's assets multiplied by the reference rate published by Poland's central bank and ii) the value corresponding to 50% of profit from operating activity for a given year. If a taxpayer opts to use the alternative method, it must be used for both related party and third-party loans for at least three tax years.

[338] **PT:** Specific limitations apply to the tax deductibility of interest expense. Net financial costs are deductible only up to the greater of EUR 1 million or 30% of the EBITDA as adjusted for tax purposes. Companies reporting under a tax group regime may apply the relevant thresholds at group level. The amount exceeding the threshold in a given year may be carried forward for the following five years up to the 30% threshold. The threshold is reduced to 25% when the NID is utilised.

[339] **ROM:** Interest expenses related to loans from banking institutions, non-banking financial companies etc. are fully deductible if incurred for business purposes.

Provisions limiting the deductibility of interest and other costs economically equivalent to interest apply from 1 January 2018, in line with the EU ATAD. Existing provisions in the Tax Code on interest and foreign exchange net losses are repealed from the same date. The deductibility limitation no longer covers just interest expenses and foreign exchange net losses, but also items defined as "borrowing costs". Excess borrowing costs (i.e. borrowing costs less interest and other economically equivalent income) higher than the deductible limit of EUR 200,000 (potentially EUR 3 million as such a threshold was included in the law approved by the Senate, but voting continues in the Chamber of Deputies), are subject to limited deductibility up to 10% of the base computation (potentially 30% as such a threshold was included in the law approved by the Senate, but voting continues in the Chamber of Deputies). The final vote is expected in January or February 2018. The base computation for these purposes is determined as the difference between income and expenses recorded as per the accounting rules, less non-taxable income, plus corporate income tax expenses, excess borrowing costs and tax depreciation. Where the base computation amount is negative or zero, the excess borrowing costs are non-deductible in the respective tax period, but may be carried forward indefinitely and deducted in a future year. By exception, excess borrowing costs may be fully deductible if the taxpayer is an independent entity (i.e. not part of a consolidated group for financial accounting purposes and with no associated enterprise or permanent establishment). From 1 January 2018, the tax value of assets will not include interest costs and other economically equivalent costs. Interest and foreign exchange net losses carried under the previous legislation in force as at 31 December 2017 will be subject to deductibility under the rnew rules as from 1 January 2018.

[340] **LIT:** A Lithuanian entity paying interest on a loan to acquire the shares of another entity may deduct the interest expenses on the loan when calculating its taxable profit for corporate income tax purposes. If the entities are subsequently merged in accordance with the particular provisions of the Lithuanian Law on Corporate Income Tax, the entity to which the obligation to repay the loan is transferred or the entity with whom the obligation has remained after the merger, can deduct the interest expenses, provided the intention of the merger was to generate economic benefits and not to pursue a tax benefit.

[341] **LUX:** Interest paid or accrued in any tax year is not deductible up to the amount of qualifying tax-exempt dividends received in that year. The capital gain realised is not tax-exempt up to the amount of any excess interest expense (interest effectively deducted) which has not been recaptured on a previous dividend receipt. Excess interest expense, capital losses and other unrelieved allowable expenses can be carried forward.

[342] **MAL:** In a given year, interest paid is deductible against a dividend paid out of the profits derived from the acquired asset during the same period.

[343] **NL:** If a Dutch company finances one of the following transactions with a loan obtained from a related party, deduction of interest (including foreign exchange results) is denied: i) dividend payment or a repayment of capital by the Dutch company, or a related company that is subject to Dutch corporate income tax, to a related party; ii) capital contribution by the Dutch company, a related company that is subject to Dutch corporate income tax, or a related individual that is a Dutch resident, into a related party or iii) acquisition or increase of an interest by the Dutch company, a related entity that is subject to Dutch corporate income tax, or a related person that is a Dutch resident, of a company that is a related entity after the transaction.

A party is considered related if: i) the Dutch taxpayer has at least a one-third shareholding in the other company, ii) the other company has at least a one-third shareholding in the Dutch taxpayer or iii) a third party has at least a one-third shareholding in both the other company and the Dutch taxpayer. As from 1 January 2017 a party is also considered related if it, together with one or more companies, forms a cooperating group ("*samenwerkende groep*") that holds at least one-third of the shares in a Dutch company. It depends on the facts and circumstances whether or not a company will be considered to be part of a cooperating group.

However, deduction of interest expenses will nevertheless be granted if the company paying the interest can substantiate that: i) the loan as well as the related transaction is mainly based on sound business reasons; ii) the interest is subject to reasonable taxation at the level of the recipient recalculated under Dutch rules, unless the Dutch tax

inspector can demonstrate that it is likely that the transaction or the loan is not predominantly based on business reasons or iii) the loan is ultimately provided by "unrelated parties" (each directly or indirectly having an interest of less than one-third in the Dutch company).
Anti-avoidance legislation restricts the tax deductibility of interest costs that exceed EUR 750,000 and which are considered to be incurred for the purpose of financing participations. There will be an "excessive" interest cost where there is "excess debt", which is the excess of the cost price of participations over the fiscal equity. Interest costs are not tax deductible in the proportion that the excess debt bears to the total debt. To avoid the impact of these rules on investments made by companies to extend their operations, the rules include a specific exemption for investments in participations to extend the activities of the existing group.
If Acquisition Co acquires (a Dutch) Target Co and subsequently forms a fiscal unity, an interest deductibility restriction applies. The restriction is the lower of:

i) if the acquisition is financed with more than 60% debt, the interest costs on debt exceeding this threshold are non-deductible. The 60% threshold is decreased by 5% per annum until the lower limit of 25% debt financing is reached; and
ii) the interest costs are only deductible at the level of Acquisition Co to the amount of the profit of the fiscal unity, reduced by the profit allocable to the other companies (stand-alone) within the fiscal unity and increased by the interest costs. The subsequent non-deductible interest will be reduced by EUR 1 million.

As from 1 January 2017, additional regulations apply to address certain loopholes in the planning structures and debt-push downs within the fiscal unity.
[344] **NOR:** See the notes to "Are there restrictions on interest deductibility?".
[345] **POL:** Legislation in this area is unclear but in practice taxpayers treat such interest as deductible (subject to interest deductibility restrictions). Application for a binding ruling or a protective opinion is recommended. From 1 January 2018, interest deductibility is generally excluded in case of “debt-push-down” scenarios.
[346] **PT:** The general limitations on the deductibility of interest apply.
[347] **ROM:** The interest is non-deductible where dividend income derived from the subsidiary would be exempt, i.e. where a shareholding of at least 10% has been held for at least one year at the time the dividends are paid.
[348] **EU/EEA:** For interest payments between directly associated companies in different EU Member States 0% withholding tax may apply, subject to satisfying the conditions in the EC Interest and Royalties Directive. "Directly associated" companies are those where one has a direct minimum holding of 25% in the capital of the other, or a third EU company has a direct minimum holding of 25% in the capital of both companies. Transitional provisions apply to some Member States – see additional individual country notes for country specific requirements.
[349] **LIT:** No withholding tax is levied on interest paid to a company resident in a European Economic Area country or a country which has concluded a double tax treaty with Lithuania; otherwise, a 10% withholding tax applies.
[350] **LUX:** The 0% rate applies other than to interest on profit-sharing bonds and debt instruments with remuneration linked to the issuer's profits.
[351] **MAL:** Provided that the non-resident does not have a PE in Malta to which the interest is effectively connected and provided that the non-resident is not owned and controlled by, directly or indirectly, or acts on behalf of any individual who is ordinarily resident and domiciled in Malta.
[352] **NOR:** The Norwegian Ministry of Finance has announced that withholding tax on interest (and royalties) is under consideration but no official proposal has yet been published.
[353] **POL:** Exemption under the EC Interest and Royalties Directive may be applied to interest payments between EU companies where the interest recipient is not exempt from income taxation on its worldwide income and interest is paid by a qualifying "directly associated company". The same rules apply to EEA countries and Switzerland (although it is unclear if they apply to Liechtenstein). As from 1 January 2017 the tax provisions explicitly require the interest recipient from an EU/EEA country to be the beneficial owner of the payment in order to apply the withholding tax exemption. The new provisions define a beneficial owner as an entity receiving a given receivable for its own benefit, which is not an intermediary, an agent, a trustee or other entity obliged to transfer this receivable or part thereof to some other entity.
[354] **PT:** Interest paid to entities located in a listed tax haven (and paid or made available in bank accounts of one or more holders where the identity of the ultimate beneficial owner is undisclosed) are subject to an increased withholding tax rate of 35%, compared to the general 25% withholding tax rate levied in Portugal on interest paid to non-resident entities where no treaty is applicable. Interest derived by non-resident entities from certain debt securities issued by Portuguese resident companies may be exempt from withholding tax. In addition, some Portuguese tax treaties provide for a tax exemption for certain interest (e.g. interest on long-term bank loans under the Portugal/US treaty).
[355] **PT:** Under the EC Interest and Royalties Directive, interest paid to EU associated companies (as defined under Portuguese domestic legislation) is exempt from withholding tax. In order to benefit from the exemption under the Directive, a minimum two-year holding period must be met. Such payments made to associated companies resident in Switzerland are also exempt, under the EU/Switzerland Savings Agreement.
[356] **ROM:** A 50% tax rate is applicable to taxable income (including interest) derived from Romanian sources by non-residents, where the income is paid to a state with which Romania has not concluded a tax information exchange agreement and the income is paid in connection with transactions which have been deemed to be artificial.
[357] **ROM:** A more favourable rate than the domestic rate may apply under a tax treaty provided that a certificate of fiscal residency is made available. Where the treaty rate is higher than the domestic rate, the domestic rate will apply. Recent legislative changes provide that in case of artificial transactions, the tax authorities can refuse to apply a double tax treaty concluded between Romania and other states for transactions without economic substance. Artificial transactions are defined as a transaction or series of transactions that have no economic substance and cannot be normally used within ordinary business practices, performed for the purpose of tax avoidance or for obtaining tax advantages that otherwise would not be granted.

[358] **ROM:** The withholding tax on interest payments made to an associated company of another EU/EFTA Member State or to a permanent establishment situated in another EU/EFTA Member State of an associated company of a EU/EFTA Member State is reduced to nil under the EC Interest and Royalties directive as transposed into the domestic legislation if: i) the beneficial owner of the income has a minimum 25% shareholding in the HoldCo and ii) the minimum shareholding has been held for two years at the date when the income is paid and the other conditions of the directive are observed (i.e. the beneficial owner is resident in an EU Member State, has one of the legal forms provided by the Annex to the Directive, is a corporate income tax payer in its country of residence, without the possibility of an option or exemption). In order to claim the benefits of the EC Interest and Royalties Directive, the non-resident income beneficiary should make available to the Romanian income payer a fiscal residency certificate, valid as at the date of the payment and an affidavit attesting that the conditions imposed by the Directive are fulfilled. The 16% rate applies only where the conditions for exemption under the EC Interest and Royalties Directive are not met and there is no applicable tax treaty.

[359] **LIT:** On a liquidation, it is assumed that the entity under liquidation sells its assets at fair market value to its shareholder. According to the Lithuanian Law on Corporate Income Tax, the transfer of real estate located in Lithuania is subject to withholding tax.

[360] **NL:** Any excess of the liquidation payment over the paid in capital is treated as a dividend and subject to dividend withholding tax.

[361] **NOR:** If carried out in accordance with liquidation rules in Norwegian company law, a liquidation is treated as a realisation of shares with a gain or loss. Currently, Norway does not impose any withholding tax on capital gains derived by non-resident shareholders.

[362] **POL:** From 1 January 2018, liquidation proceeds are subject to withholding tax (subject to a relevant tax treaty). Based on the new domestic provisions, withholding tax exemption under the EC Parent-Subsidiary Directive does not apply to liquidation proceeds.

[363] **PT:** Liquidation payments are regarded as capital gains and subject to tax accordingly.

[364] **ROM:** Income derived by a non-resident from the liquidation of a Romanian company is subject to 16% withholding tax under domestic legislation, subject to the provisions of a relevant tax treaty which may allow a more favourable or nil withholding tax rate to be applied. A 50% tax rate is applicable to taxable income (including liquidation proceeds) derived from Romanian sources by non-residents, where the income is paid to a state with which Romania has not concluded a tax information exchange agreement and in connection with transactions which have been deemed to be artificial.

[365] **EU/EEA:** A binding mandatory general antiabuse rule (GAAR) included in the EC Parent-Subsidiary Directive (PSD) requires Member States to deny any tax exemption under the PSD for dividends received where the payment of the dividends resulted in a decrease in the taxable base of a distributing entity that is tax resident in another EU Member State. See additional individual country notes for country specific requirements.

[366] **LIT:** Under the participation exemption, dividends are exempt from corporate income tax if the parent company holds at least 10% of the shares of the payer company continuously for at least 12 months as at the date of distribution of the dividends. It should be noted that according to the official Commentary of the Lithuanian Law on Corporate Income Tax, the participation exemption might also be applicable if at the moment of dividend distribution the parent company holds the shares for the period shorter than 12 months but intends to hold these shares for at least 12 months and later in fact fulfils this requirement. The participation exemption will not apply if the foreign entity is established in a tax haven or if the dividends are received from a foreign entity whose profit is not subject to corporate income tax or an equivalent tax. Dividends received from entities established in an EEA country will be exempt from corporate income tax, provided the entity distributing the dividends is subject to corporate income tax or an equivalent tax in its country of residence. Dividends are treated as fully taxable (even where the requirements for the participation exemption are otherwise met), when the foreign entity paying the dividends has reduced its profits by the amount of dividends paid.

[367] **LUX:** The participation exemption does not apply to non-resident joint stock companies which are not liable to a tax rate of at least 9%, with the tax base determined in a manner not similar to that employed by Luxembourg. Any costs during the year that are economically related to exempt dividend distributions will not be deductible from the tax base up to the amount of exempt dividends received in the same year. The remaining amount will be added to the tax base in the year of disposal. The SPF is exempt from corporate income tax.

Luxembourg has transposed into its domestic law amendments to the EC Parent-Subsidiary Directive introducing the common anti-abuse rule and the measure to avoid situations of double non-taxation deriving from mismatches in the tax treatment of profit distributions between Member States.

[368] **NL:** The participation exemption applies if HoldCo holds at least 5% of the shares in the subsidiary (which has a capital divided into shares) and does not hold these shares as a portfolio investment ("intention test"). Subsidiaries which are held as portfolio investments can still qualify for the participation exemption if more than 50% of the assets are active or if the subsidiary is taxed at a rate of at least 10%, calculated upon a tax base which does not systematically differ from the Dutch tax base. For passive portfolio investments with an effective tax rate below 10%, a tax credit system applies. (Special rules may apply upon transition in the applicability of the participation exemption to a participation, owing to changed facts and circumstances of the participation or Dutch tax law.) A General Anti-Abuse Rule (GAAR) applies similar to the GAAR in the EC Parent-Subsidiary Directive. The GAAR ensures that the participation exemption does not apply to income which is treated as a deductible cost at the level of the participation (i.e. relating to hybrid income).

[369] **NOR:** Dividends on shares in limited companies tax resident in EEA countries are fully exempt where there is more than 90% ownership (and voting rights). Where ownership is 90% or less, the dividends are 97% exempt. The 100%/97% exemption is limited with respect to entities located in a low tax jurisdiction within the EEA (defined as below 2/3rds of the effective Norwegian tax rate), if the entity does not perform "real economic activities" in that jurisdiction. Dividends from non-EEA countries are 97% exempt if not from a low tax jurisdiction and if derived from a direct participation i.e. owning at least 10% of the capital and voting rights, held for a period of at least two years. Jurisdictions

mentioned in an annual "white list" issued by the Norwegian tax authorities are initially deemed not to be low tax jurisdictions. However, if companies resident in white list jurisdictions outside the EEA primarily have income consisting of dividends and capital gains from low tax jurisdictions and such income is exempt in the white list jurisdiction in question, the company may still be seen as resident in a low tax jurisdiction.

[370] **POL:** Dividends received by Polish companies from EU and EEA countries are exempt provided certain conditions are met and subject to an anti-abuse clause related to dividends. It is unclear whether the EEA includes Liechtenstein for this purpose. The exemption may be applied provided the dividend recipient is not exempt from income taxation on its worldwide income. Other dividends are taxable but the Polish company is entitled to credit for both dividend withholding tax and underlying tax (subject to certain conditions being met and up to certain limits).

[371] **PT:** Under Portugal's participation exemption regime, dividends received by a resident company related to a domestic or foreign shareholding are exempt from tax provided the recipient is not considered a transparent entity and has held (directly or indirectly) at least 10% of the capital (or voting rights) of the subsidiary for at least 12 months. The subsidiary may not be resident in a listed tax haven and must be subject to (and not exempt from) tax equivalent to Portuguese corporate tax at a rate of at least 60% of the Portuguese corporate tax rate. For subsidiaries resident in an EU Member State, the subsidiary must be subject to a tax listed in the EC Parent-Subsidiary Directive. However, the participation exemption regime will not be applicable to dividends: i) corresponding to deductible expenses at the level of the distributing company or ii) distributed by non-EU/EEA companies which are not subject to, or are exempt from, taxation in their home country (except when the dividends derive from income subject to (and not exempt from) tax at the level of a sub-affiliated company).

An ordinary credit is available when the conditions for the application of the participation exemption regime are not fully met, with an option for an underlying tax credit for dividends on shareholdings of at least 10% held for 12 months (the latter does not apply to shareholdings held in listed tax havens). A full or partial exemption of dividends is also provided in some Portuguese tax treaties.

[372] **ROM:** Dividend income received by a Romanian legal entity that holds, for a continuous period of at least one year, 10% of the share capital of another legal entity located in Romania or a state with which Romania has concluded a double tax treaty, should be treated as non-taxable. Dividends received from companies from non-EU countries or from countries with which Romania has not concluded a double tax treaty are taxable at 16%. Also, according to the provisions of the EC Parent-Subsidiary Directive as transposed in domestic legislation, dividends received from EU countries are exempt if the following conditions are fulfilled: i) a minimum holding of 10%; ii) the holding is held for at least one year at the date when the dividend is paid and iii) the other conditions of the directive are observed (i.e. the beneficial owner is resident in an EU Member State, has one of the legal forms provided by the Annex to the Directive, is a corporate income tax payer in its country of residence, without the possibility of an option or exemption). Dividends received by HoldCo from a Romanian subsidiary are exempt with no minimum shareholding or holding period requirements.

[373] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.

[374] **LIT:** The provisions regarding the non-taxation of dividends under the participation exemption do not apply where the main or one of the main purposes of the structure is to obtain a tax advantage, and there is not a reasonable commercial purpose reflecting economic reality (after assessing all relevant facts and circumstances).

[375] **NL:** The participation exemption applies if HoldCo holds at least 5% of the shares in the subsidiary (which has a capital divided into shares) and does not hold these shares as a portfolio investment ("intention test"). Subsidiaries which are held as portfolio investments can still qualify for the participation exemption if more than 50% of the assets are active or if the subsidiary is taxed at a rate of at least 10%, calculated upon a tax base which does not systematically differ from the Dutch tax base. For passive portfolio investments with an effective tax rate below 10%, a tax credit system applies. (Special rules may apply upon transition in the applicability of the participation exemption to a participation, owing to changed facts and circumstances of the participation or Dutch tax law.) A General Anti-Abuse Rule (GAAR) applies similar to the GAAR in the EC Parent-Subsidiary Directive. The GAAR ensures that the participation exemption does not apply to income which is treated as a deductible cost at the level of the participation (i.e. relating to hybrid income).

[376] **NOR**: See notes to "How are dividends taxed?". To the extent that the subsidiary has been subject to CFC taxation, only the part of dividends in excess of the profits already taxed in the hands of HoldCo is taxable. The same applies if the subsidiary has received share income/gains subject to the Norwegian participation exemption rules. This prevents such income/gains being taxed in Norway.

[377] **POL:** No specific regulations, each case must be considered individually.

[378] **PT:** Substance requirements are only applicable for the purposes of the application of the participation exemption if the "subject-to-tax" test is not met.

[379] **ROM:** No specific substance requirements exist in domestic legislation but the legislation does provide that the authorities are entitled to disregard or requalify a transaction when imposing a tax, in order to accurately reflect the economic substance of that transaction.

[380] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.

[381] **LUX:** Subsidiaries must be subject to tax at a rate of at least 9% with comparable taxable basis. The subsidiary is not required to actually pay tax (e.g. where it is in a tax loss position).

[382] **MAL:** No, for an EU resident entity or entity that does not derive more than 50% of its income from passive interest and royalties. Otherwise, there is a 15% subject-to-tax requirement, reduced to 5% in the case of a non-portfolio investment.

[383] **NL:** If the subsidiary is not held as a portfolio investment or if greater than 50% of the assets cannot be qualified as free portfolio investments, the local tax rate is not relevant. A General Anti-Abuse Rule (GAAR) applies similar to the GAAR in the EC Parent-Subsidiary Directive. The GAAR ensures that the participation exemption does not apply to income which is treated as a deductible cost at the level of the participation (i.e. relating to hybrid income).
[384] **NOR:** See notes to "How are dividends taxed?". To the extent that the subsidiary has been subject to CFC taxation, only the part of dividends in excess of the profits already taxed in the hands of HoldCo is taxable. The same applies if the subsidiary has received share income/gains subject to the Norwegian participation exemption rules. This prevents such income/gains being taxed in Norway.
[385] **POL:** Poland has CFC regulations. A participating Polish taxpayer is subject to tax at 19% on income generated by a CFC, broadly defined as an entity: i) whose registered office is located in country deemed to be a tax haven; or ii) whose registered office is located in a country with which Poland or the EU has not signed an agreement for the exchange of tax information; or iii) which meets the criteria specified in the relevant Polish tax legislation: a) the taxpayer independently or jointly with related entities, for a period of at least 30 days, holds directly or indirectly at least 50% of capital shares, or has at least 50% of voting rights in the managing or supervisory board, or holds shares with an entitlement to at least 50% of the profit participation; b) at least 33% of revenues within a given tax year are generated from broadly defined passive income; and c) the effective tax rate paid by the company (not including a permanent establishment. which is not taxed in the company's state of residence or is tax exempt in the company's state of residence) is lower than the difference between the Polish corporate income tax rate and the corporate income tax rate in the company's state of residence.
A possible exception to the CFC rules may be applicable if the entity is subject to taxation in an EU or EEA member state, and is involved in substantial economic activity (calculated as a ratio between revenue from the substantial economic activity and total revenue). In addition, the tax base (taxable income) under the CFC regime may be reduced by any amounts received by the Polish taxpayer in the form of dividends from a CFC or from the sale of shares in a CFC.
[386] **PT:** The subsidiary may not be resident in a listed tax haven and must be subject to (and not exempt from) a tax equivalent to Portuguese corporate tax at a rate of at least 60% of the Portuguese corporate tax rate. Subsidiaries resident in an EU Member State must be subject to (and not exempt from) a tax listed in the EC Parent-Subsidiary Directive. If a subsidiary does not meet the "subject-to-tax" test, the company may still benefit from the participation exemption if certain additional conditions are met.
[387] **LIT:** See the note to "How are dividends taxed?" regarding the 12 month holding period.
[388] **MAL:** Where the "significant investment test" (i.e. acquisition cost of approximately EUR 1.2 million) is being relied on to qualify the holding as a participating holding, the investment must be held for an uninterrupted period of 183 days. Dividends received during the 183-day period will qualify provided the holding requirement is subsequently met.
[389] **ROM:** Dividend income received by a Romanian legal entity that holds, for a continuous period of at least one year, 10% of the share capital of another legal entity located in Romania or a state with which Romania has concluded a double tax treaty, should be treated as non-taxable.
Also, according the provisions of the EC Parent-Subsidiary Directive as transposed in domestic legislation, dividends received from EU countries are exempt from corporate income tax if the following conditions are satisfied: i) the parent company has a minimum 10% shareholding in the subsidiary; ii) the minimum shareholding has been held for one year as at the date when the dividend is paid and iii) the other conditions of the directive are observed (i.e. the beneficial owner is resident in an EU Member State, has one of the legal forms provided by the Annex to the Directive, is a corporate income tax payer in its country of residence, without the possibility of an option or exemption). If at the date of payment of the dividends, the minimum holding period requirements have not been met, the dividend will be subject to taxation under Romanian legislation, taking account of the provisions of the relevant double tax treaty. Subsequently, in the fiscal year in which the condition is fulfilled, the beneficiary of the income may request reimbursement of the excess tax paid.
Dividends received from a Romanian company are exempt from corporate income tax with no minimum shareholding or length of ownership requirements.
Other dividends received from non-resident payers (e.g. non-EU countries or companies in EU Member States but where the conditions of the EC Parent-Subsidiary Directive are not satisfied) are subject to 16% profits tax irrespective of the holding period/shareholding but the Romanian company is entitled to credit for foreign tax in accordance with domestic law.
[390] **LIT:** See the note to "How are dividends taxed?" regarding the 12 month holding period.
[391] **MAL:** A participating holding generally refers to an equity shareholding in a foreign company – broadly, a holding of at least 10% of the equity shares or an investment of approximately EUR 1.2 million, although a number of alternative tests may apply. Equity shares held for the furtherance of the company’s business also qualify as a participating holding provided they are not held as stock in trade.
[392] **NOR:** At least 10% of the share capital and votes are required, (see notes to "How are dividends taxed?").
[393] **POL:** Minimum shareholding requirements to qualify for exemption are 10% for dividends received from Poland, EU and EEA countries, and 25% for dividends from Switzerland. A 75% minimum shareholding is required to obtain credit for underlying tax in respect of dividends received from treaty countries other than EU/EEA countries and Switzerland. These rules may be applied to the case when the dividend is received from shares that, in principle, are owned by the dividend recipient.
[394] **PT:** The minimum threshold relates to the participation in the capital or to the holding of voting rights and may be held directly or indirectly.
[395] **ROM:** Dividend income received by a Romanian legal entity that holds, for a continuous period of at least one year, 10% of the share capital of another legal entity located in Romania or a state with which Romania has concluded a double tax treaty, should be treated as non-taxable. 10% is also the required minimum shareholding in accordance with the EC Parent-Subsidiary Directive.

Dividends received from entities that do not comply with the above mentioned conditions are subject to 16% profits tax. However, the Romanian company is entitled to credit for foreign tax in accordance with domestic law if a double tax treaty is concluded.

[396] **LIT:** A capital gain derived from the sale of shares of a company, registered in EEA country or in another double tax treaty country and which is subject to corporate income tax or an equivalent tax, is exempt from tax if the shares have been held for at least two years and if the holding represents more than 10% of shares of the company throughout that period. However, if the shares were transferred in the event of a reorganisation or transfer referred to under specific provisions of the Law on Corporate Income Tax, the uninterrupted period for holding of shares is at least three years. Capital gains on the sale of a company are exempt from tax and the holding period requirements do not apply where there is a legal requirement to transfer the shares. Exemption does not apply if the entity transferring the shares transfers them to the entity that has issued the shares.

[397] **LUX:** Any costs, such as interest related to the acquisition of the shares or write-downs on participations linked to dividend distributions in/by a qualifying subsidiary, deducted from the taxable profit in previous years, will be recaptured in the tax base of the year of disposal, reducing the amount of capital gain qualifying for exemption. Any such expenses incurred in the year of disposal are set off against any qualifying tax-exempt dividends received; the remaining amount is recaptured. The SPF is exempt from corporate income tax.

[398] **NL:** The participation exemption applies if HoldCo holds at least 5% of the shares in the subsidiary (which has a capital divided into shares) and does not hold these shares as a portfolio investment ("intention test"). Subsidiaries which are held as portfolio investments can still qualify for the participation exemption if more than 50% of the assets are active or if the subsidiary is taxed at a rate of at least 10%, calculated upon a tax base which does not systematically differ from the Dutch tax base. For passive portfolio investments with an effective tax rate below 10%, a tax credit system applies. (Special rules may apply upon transition in the applicability of the participation exemption to a participation, owing to changed facts and circumstances of the participation or Dutch tax law.)

[399] **NOR:** Capital gains on shares in limited companies tax resident in EEA countries are tax exempt. The exemption is limited with respect to entities located in a low tax jurisdiction within the EEA (defined as below 2/3rds of the effective Norwegian tax rate) if the entity does not perform "real economic activities" in that jurisdiction. Capital gains from non-EEA countries are tax exempt if not from a low tax jurisdiction and if derived from a direct participation i.e. owning at least 10% of the capital and voting power, held for a period of at least two years. Jurisdictions mentioned in an annual "white list" issued by the Norwegian tax authorities are initially deemed not to be low tax jurisdictions. However, if companies resident in white list jurisdictions outside the EEA primarily have income consisting of dividends and capital gains from low tax jurisdictions and such income is exempt in the white list jurisdiction in question, the company may still be seen as resident in a low tax jurisdiction. Where a gain is taxable, it is generally calculated as the difference between cost and net sales proceeds. A taxable gain is included within any other income of a taxable nature.

[400] **PT:** Under Portugal's participation exemption regime, capital gains assessed by a resident company related to a domestic or foreign shareholding are exempt from tax provided the recipient is not considered a transparent entity and has held (directly or indirectly) at least 10% of the capital (or voting rights) of the subsidiary for at least 12 months. The subsidiary may not be resident in a listed tax haven and must be subject to (and not exempt from) an income tax equivalent to Portuguese corporate tax at a rate of at least 60% of the Portuguese corporate tax rate. For subsidiaries resident in an EU Member State, the subsidiary must be subject to (and not exempt from) a tax listed in the EC Parent-Subsidiary Directive. The exemption is not applicable to disposals of shares in companies whose assets consist of at least 50% of the Portuguese real estate, unless the real estate is related to an industrial, agricultural or commercial activity (other than the purchase and sale of real estate).

[401] **ROM:** Capital gains derived from the sale or transfer of shares by a Romanian legal entity that holds, for a continuous period of at least one year, 10% of the share capital of another legal entity located in Romania or a state with which Romania has concluded a double tax treaty, should be treated as non-taxable. The same treatment should apply to the proceeds obtained from the liquidation of a Romanian or foreign legal entity, located in a state with which Romania has concluded such a treaty.

For entities that do not meet comply with the mentioned conditions, the more favourable provisions of a relevant double tax treaty may still apply.

[402] **LIT:** Losses incurred as a result of the transfer of securities and/or derivative financial instruments (hereinafter "securities") can be carried forward for five consecutive tax periods and offset only against income received from the transfer of securities. Losses from operational activities can also be offset against income received from the transfer of securities. Losses incurred as a result of the transfer of shares of an entity established or otherwise incorporated in the EEA or a jurisdiction with which Lithuania has a double tax treaty and which is subject to corporate income tax or an equivalent tax, where the entity that transfers the shares has held more than 10% of voting shares in that entity for an uninterrupted period of at least two years, shall be deducted from taxable income received from the transfer of securities during that tax period but cannot be carried forward. However, the amount of losses deducted in this manner may not exceed the amount of income received from the securities. Transfer of losses between EU group entities is possible provided that certain requirements are met.

[403] **LUX:** Losses generated as from 1 January 2017 can be carried forward for 17 years. Earlier losses are not subject to this limitation.

[404] **NOR:** Losses on shares in companies resident in low tax jurisdictions within the EEA are not deductible, even if gains are fully taxable.

[405] **POL:** From January 2018, there are two types of revenue: i) capital gains (listed in the Polish Corporate Income Tax Law) and ii) "other" revenue (all revenue not classified as capital gains, including revenue from the business activity). Revenues and costs from both sources are settled separately; losses derived from one source cannot be offset against income derived from the other. In practice, the deductibility of losses arising on the disposal of participations may therefore be limited.

[406] **PT:** Losses are not deductible if any gain on the sale of the participation would be exempt; other capital losses are deductible in accordance with the general rules.

[407] **ROM:** Capital losses are not deductible where capital gains on the disposal would be exempt, i.e. where a shareholding of at least 10% has been held for at least one year.

[408] **LUX:** The possible write-down booked on the participation, if linked to a dividend distribution, is not deductible up to the amount of fully tax-exempt dividends received in the same year. The remaining amount is deductible but subject to the recapture rules, i.e. write-offs which have decreased the tax base in the current or previous years are recaptured in the year of disposal and reduce the amount of capital gain qualifying for the exemption.
[409] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.
[410] **NL:** The participation exemption applies if HoldCo holds at least 5% of the shares in the subsidiary (which has a capital divided into shares) and does not hold these shares as a portfolio investment ("intention test"). Subsidiaries which are held as portfolio investments can still qualify for the participation exemption if more than 50% of the assets are active or if the subsidiary is taxed at a rate of at least 10%, calculated upon a tax base which does not systematically differ from the Dutch tax base. For passive portfolio investments with an effective tax rate below 10%, a tax credit system applies. (Special rules may apply upon transition in the applicability of the participation exemption to a participation, owing to changed facts and circumstances of the participation or Dutch tax law.)
[411] **NOR:** See notes to "How are gains on the sale of a subsidiary taxed?". Special rules apply with respect to calculating gains on participations which have been subject to CFC taxation. Basically the tax base (cost) is adjusted to take account of the profits taxed in the hands of HoldCo. The same applies if the subsidiary has received share income/gains subject to the Norwegian participation exemption rules. This prevents such income/gains being taxed in Norway.
[412] **POL:** Although there are no formal substance requirements, the Polish general anti-avoidance rule (GAAR) should be observed.
[413] **PT:** Substance requirements may be applicable for the purposes of the application of the participation exemption regime if the "subject-to-tax" test is not met.
[414] **ROM:** No specific substance requirements exist in domestic legislation but the legislation does provide that the authorities are entitled to disregard or requalify a transaction when imposing a tax, in order to accurately reflect the economic substance of that transaction.
[415] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.
[416] **LIT:** There are no specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance requirements, CFC or equivalent corporate income tax legislation. However, in order for the participation exemption to apply, the foreign subsidiary must be a payer of corporate income tax or an equivalent tax.
[417] **LUX:** Subsidiaries must be subject to tax at a rate of at least 9% with comparable taxable basis. The subsidiary is not required to actually pay tax (e.g. where it is in a tax loss position).
[418] **NL:** If the subsidiary is not held as a portfolio investment or if more than 50% of the assets cannot be qualified as free portfolio investments, the local tax rate is not relevant.
[419] **NOR:** See notes to "How are gains on the sale of a subsidiary taxed?". Special rules apply with respect to calculating gains on participations which have been subject to CFC taxation. Basically the tax base (cost) is adjusted to take account of the profits taxed in the hands of HoldCo. The same applies if the subsidiary has received share income/gains subject to the Norwegian participation exemption rules. This prevents such income/gains being taxed in Norway.
[420] **POL:** Poland has CFC regulations. A participating Polish taxpayer is subject to tax at 19% on income generated by a CFC, broadly defined as an entity: i) whose registered office is located in country deemed to be a tax haven; or ii) whose registered office is located in a country with which Poland or the EU has not signed an agreement for the exchange of tax information; or iii) which meets the criteria specified in the relevant Polish tax legislation: a) the taxpayer independently or jointly with related entities, for a period of at least 30 days, holds directly or indirectly at least 50% of capital shares, or has at least 50% of voting rights in the managing or supervisory board, or holds shares with an entitlement to at least 50% of the profit participation; b) at least 33% of revenues within a given tax year are generated from broadly defined passive income; and c) the effective tax rate paid by the company (not including a permanent establishment. which is not taxed in the company's state of residence or is tax exempt in the company's state of residence) is lower than the difference between the Polish corporate income tax rate and the corporate income tax rate in the company's state of residence.
A possible exception to the CFC rules may be applicable if the entity is subject to taxation in an EU or EEA member state, and is involved in substantial economic activity (calculated as a ratio between revenue from the substantial economic activity and total revenue). In addition, the tax base (taxable income) under the CFC regime may be reduced by any amounts received by the Polish taxpayer in the form of dividends from a CFC or from the sale of shares in a CFC.
[421] **PT:** The subsidiary may not be resident in a listed tax haven and must be subject to (and not exempt from) an income tax equivalent to the Portuguese corporate tax at a rate of at least 60% of the Portuguese corporate tax rate. Subsidiaries resident in an EU Member State must be subject to (and not exempt from) a tax listed in the EC Parent-Subsidiary Directive. If a subsidiary does not meet the "subject-to-tax" test, the company may still benefit from the participation exemption if certain additional conditions are met.
[422] **LIT:** As noted in the note to "Gains on disposal of participations: How are gains on the sale of a subsidiary taxed?", the holding period is not taken into account in where the shares are transferred in accordance with a mandatory legal requirement.
[423] **MAL:** Where the "significant investment test" (i.e. acquisition cost of approximately EUR 1.2 million) is being relied on to qualify the holding as a participating holding, the investment must be held for an uninterrupted period of 183 days. Dividends received during the 183-day period will qualify provided the holding requirement is subsequently met.
[424] **NOR:** See notes to "How are gains on the sale of a subsidiary taxed?".

[425] **MAL:** A participating holding generally refers to an equity shareholding in a foreign company – broadly, a holding of at least 10% of the equity shares or an investment of approximately EUR 1.2 million, although a number of alternative tests may apply. Equity shares held for the furtherance of the company's business also qualify as a participating holding provided they are not held as stock in trade.
[426] **NOR:** See notes to "How are gains on the sale of a subsidiary taxed?".
[427] **PT:** The participation actually transferred may be less than 10%, provided that the existence of the minimum holding of 10% is verified immediately before the disposal. Further, the minimum threshold relates to the participation in the capital or to the holding of voting rights and may be held directly or indirectly.
[428] **LIT:** Tax losses may be transferred to other group entities, subject to certain conditions.
[429] **LUX:** Two forms of tax consolidation are available, vertical and horizontal. Vertical tax consolidation allows a fully taxable resident company, or Luxembourg permanent establishment of a non-resident company subject to a tax similar to Luxembourg corporate income tax, of which at least 95% of the capital is directly or indirectly held by another fully taxable resident company or by a Luxembourg permanent establishment of a non-resident company subject to a tax similar to Luxembourg corporate income tax, to apply for fiscal consolidation with its parent company. Horizontal tax consolidation is a new concept which, under certain conditions, allows sister companies with the same direct or indirect parent company to form a fiscal integration together without the parent company forming part of the consolidation. In such a case, the results would be regrouped at the level of the chosen integrating company and not at the level of the non-integrated direct or indirect parent company.
[430] **MAL:** Group relief is only available for losses.
[431] **NL:** Economic and legal ownership of at least 95% of the shares is required. Fiscal unities are permitted between companies established in the Netherlands, even if the linking entities are established in other EU Member States. The foreign companies are not included in the consolidation. This allows fiscal unities between parent and second-tier subsidiaries, and between sister companies.
[432] **NOR:** No aggregation of income but group contributions with tax effect are permitted.
[433] **POL:** For Polish companies only.
[434] **ROM:** Consultations regarding the introduction of group relief legislation are ongoing.
[435] **SLOVAK:** Binding rulings may be issued only in limited situations. Advance rulings are available in a limited range of circumstances and are subject to a fee calculated based on the value of the transaction concerned. Advance pricing agreements are also available, in which the tax authorities will only approve the use of a particular transfer pricing method, not any relevant mark-up/profit percentages. Advance pricing agreements are subject to a fee of EUR 10,000 for a unilateral advance ruling and EUR 30,000 in cases involving the application of a double tax treaty.
[436] **SLOVEN:** Advance rulings in respect of a taxpayer's future operations may be obtained in certain circumstances. In practice, rulings are issued if the taxpayer prepares the proper documentation. From 1 January 2017, it is also possible to obtain a binding ruling for transfer pricing purposes.
[437] **SA:** To promote clarity, consistency and certainty in interpretation and application of the tax laws, the Commissioner for the South African Revenue Services (SARS) can issue three types of ruling (via the SARS Advance Tax Rulings Division): a binding general ruling (BGR), a binding private ruling (BPR) or a binding class ruling (BCR).
[438] **UK:** The UK authorities will give advice on the interpretation of the law (including in relation to a proposed transaction) if the taxpayer has fully considered the relevant guidance and there remains a genuine uncertainty about HMRC's interpretation of tax legislation. Specific advance clearance procedures are also available (e.g. with relation to the company reconstructions and amalgamations legislation). Advance pricing agreements and advance thin capitalisation agreements (ATCAs) can be agreed with the UK authorities with respect to the transfer pricing methodology adopted for intragroup transactions.
[439] **SA:** The activities of a headquarter company (HQC) are limited to holding shares; it may not be an operating company. The key requirements for an HQC are: i) the company must be resident in South Africa - that is incorporated, established or formed in South Africa or have its place of effective management in South Africa; ii) each shareholder must hold at least 10% of the shares in the HQC; iii) the HQC's asset base must comprise at least 80% participation interests (such as equity, loans and intellectual property) in foreign subsidiaries and iv) where the income of the HQC exceeds R5 million per annum, at least 50% of the HQC's gross income must be derived from the aforementioned asset base.
[440] **SPA:** There is no restriction on the activities carried out by an ETVE but tax advantages are restricted to income and gains from foreign participations meeting certain requirements.
[441] **SWI:** To qualify for the holding company privilege at the cantonal and communal level, all of the following conditions must be satisfied: i) the company's primary statutory purpose is the administration of participations; ii) the company does not carry on an active trade or business in Switzerland; iii) the company holds qualifying investments (significant trading with the investments is not allowed) and iv) at least 2/3rds of total assets consist of investments or at least 2/3rds of income is derived from qualifying investments.
[442] **TUR:** No legal restrictions but Article 519 of the Turkish Commercial Code defines HoldCos as companies whose main purpose is limited to holding participations in other companies.
[443] **SPA:** Minimum substance is required with the necessary personnel and material resources for management and administration of the interest in the foreign investments, which is analysed on a case-by-case basis. In accordance with a binding ruling issued by the Spanish General Directorate of Taxes, there should be adequate personnel and material resources at the Spanish Holdco level to allow: i) the exercise of shareholders' rights, ii) compliance with general/regular shareholders' obligations and iii) the taking of decisions related to the Spanish HoldCo investment(s). In principle, such management functions may be delegated to the Spanish HoldCo's directors. However, if the management and/or

administration of the subsidiaries were totally or partially carried out by way of external resources (e.g. the directors' powers of decision making with regard to the subsidiaries were limited and transferred to the Spanish HoldCo shareholders), the Spanish HoldCo would not be eligible for the application of the ETVE regime. Personnel and/or material means to manage the business of the foreign subsidiaries are not in principle required.
The application of measures in accordance with EU ATAD I and II and the OECD's initiative to prevent Base Erosion and Profit Shifting (BEPS) (e.g. Action 5 "Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance" and Action 6 " Preventing the Granting of Treaty Benefits in Inappropriate Circumstances" may result in the minimum substance requirements becoming stricter in the future not only for the application of the ETVE regime itself but with respect to the application of reduced WHT by the source country on dividends paid to a Spanish Holdco, if it is concluded that the HoldCo is an interposed/conduit company (this should be monitored on ongoing basis).
[444] **SWI:** Mergers and similar transactions (such as incorporation of a holding company by a contribution in kind), transformations, reorganisations and spin-offs of taxable entities do not give rise to stamp duty in certain circumstances. A threshold of CHF 1 million applies for capital increases.
[445] **TUR:** A compulsory contribution of 0.04% of any monetary contributions on incorporation and subsequent increases in share capital is payable to the Competition Board.
[446] **SA:** The HQC regime effectively eliminates certain unfavourable CFC provisions, dividend withholding tax, interest withholding tax and royalty withholding tax, and relaxes exchange control regulations in relation to an HQC. In addition, capital gains tax, thin capitalisation and transfer pricing rules do not apply to HQCs, subject to certain criteria being met. Dividends received by a HQC should qualify for the participation exemption. South Africa's exchange control regulations do not apply to HQCs. A company must file an annual election to become and remain an HQC.
[447] **SPA:** Under the Spanish Special Holding Regime (ETVE), application of the regime requires previous communication to the Spanish tax authorities.
[448] **SWI:** At the cantonal and communal levels, companies that have obtained the holding company privilege pay no income taxes other than on Swiss real estate income. On a federal level, the participation relief applies. The holding company privilege will be abolished as part of the Swiss Tax Reform Proposal 17 that is expected to take effect from 1 January 2020 or 2021. Thereafter, the same rules will apply for cantonal taxes as for federal taxes (i.e. participation relief).
[449] **TUR:** To qualify as an international holding company: i) a Turkish company must be a corporation (i.e. an A.S.); ii) at least 75% of its total assets (excluding cash items) must comprise foreign participations held for a continuous period of at least one year; iii) the Turkish company must hold at least 10% of the capital of each foreign participation and iv) the foreign participation must be in the form of a corporation or limited liability company.
[450] **SLOVAK:** Controlled foreign company (CFC) rules will apply from 1 January 2019 which will require the tax base of the CFC to be included as part of the Slovak taxpayer's tax base for the taxable period in which the taxable period of the CFC ends. In order to avoid double taxation, the Slovak taxpayer will be entitled to deduct income which has already been taxed at the level of the CFC and to a credit for any tax paid by the CFC. A foreign entity which: i) is at least 50% owned, directly or indirectly, by a Slovak entity and ii) pays tax in its country of residence in any given taxation period of less than 50% of the amount that would have been payable had the entity been tax resident in Slovakia, will be considered a CFC. Where both conditions are met simultaneously, the tax base of the Slovak entity would need to be adjusted in line with transfer pricing rules for income of that entity attributable to the assets and risks associated with the execution of significant transactions of the Slovak entity.
[451] **SLOVEN:** No specific legislation but some provisions in the Corporate Income Tax and Tax Procedure Acts.
[452] **SA:** The CFC legislation does not apply to HQCs.
[453] **UK:** The UK's CFC regime operates with a focus on charging UK tax on foreign profits artificially diverted from the UK. In addition, there are gateway tests and exemptions which should remove many companies from the CFC rules.
[454] **SLOVEN:** Increased from 17% with effect from 1 January 2017.
[455] **SA:** Management fees, technical fees and interest received by a HQC will be subject to tax at 28%.
[456] **SWI:** The federal income tax of 8.5% is deductible, giving an effective rate of 7.8%. At cantonal and communal level, holding companies are exempt from paying income tax.
[457] **TUR:** The rate will be 22% for the 2018, 2019 and 2020 fiscal years. The Council of Ministers is authorised to reduce this rate.
[458] **UK:** A future reduction to 17% from 1 April 2020 has already been enacted.
[459] **SPA:** Although Spanish corporate income tax (CIT) legislation does not provide for a notional interest deduction, there is a CIT incentive aimed to boost the capitalisation of Spanish companies (the so called "capitalisation reserve" tax relief). Under the incentive, Spanish companies can deduct from their current year taxable income an amount equal to 10% of the increase in their net equity provided that: i) the increase is maintained throughout the following five years and ii) an undistributable reserve (separate from other reserves and with an appropriate name) is recorded in an amount equal to the relevant reduction. The tax incentive cannot exceed 10% of the relevant taxable income, prior to deducting the relief and tax losses.
[460] **SWI:** The notional interest deduction is unlikely be part of the Swiss Tax Reform Proposal 17 that is expected to take effect from 1 January 2020 or 2021.
[461] **TUR:** A notional interest deduction (NID) is available for cash capital increases with effect from 1 July 2015. Companies benefit from a deemed interest deduction from their corporate tax base of the relevant year equal to 50% of the interest calculated on the cash capital increase in the registered capital for existing companies or cash capital contributions for newly incorporated companies, based on the average interest rate announced by the Central Bank of Turkey for TRY denominated commercial loans. Companies operating in the finance, banking and insurance sectors (including financial leasing, factoring, financing and asset leasing companies) and public economic enterprises are not entitled to the NID.

The deduction is allowed starting from the fiscal year in which the resolution regarding the share capital increase in cash has been registered and is available in each subsequent fiscal year.

[462] **SLOVAK:** In general, the proceeds from the sale of a participation in a Slovak company by a non-resident corporate shareholder are viewed as Slovak-source income subject to taxation in Slovakia. If the purchaser is resident in an EU Member State and the seller is not a Slovak resident or a company with a PE in Slovakia, the income would not be taxable in Slovakia, unless a relevant double tax treaty provides otherwise; if the purchaser is a Slovak resident or has a Slovakian PE, the income would be treated as Slovakian-source income and liable to tax in Slovakia, unless a relevant double tax treaty provides otherwise. If the seller or purchaser is not resident in an EU Member State, the income on the disposal would be treated as Slovak-source income and taxed in Slovakia unless a relevant double tax treaty provides otherwise.

Income derived from the transfer of a participation interest in a company incorporated in Slovakia which owns immovable assets situated in Slovakia with a book value in the financial statements for the year preceding the transfer of more than 50% of the equity of the company, is treated as Slovak sourced income ("real estate clause") and is subject to tax in Slovakia, unless a relevant double tax treaty provides otherwise.

[463] **SA:** Non-residents are not subject to capital gains tax in South Africa upon disposal of their shares in an HQC, unless the sale is in respect of immovable property situated in South Africa or an interest in or right to immovable property in South Africa; or where assets are attributable to a permanent establishment of the non-resident company within South Africa.

[464] **SPA:** Any capital gain arising on the disposal of shares in a Spanish Holdco by a non-resident shareholder is not subject to tax in Spain to the extent that the gain is attributable to: i) reserves consisting of exempt income (foreign qualifying dividends and qualifying capital gains) and ii) any increase in the value of participations in non-resident entities which qualify for the participation exemption (amongst other requirements, shareholding of more than 5% or acquisition cost in excess of EUR 20 million, one-year holding period, minimum 10% taxation test). Other sources of income (e.g. income derived from Spanish subsidiaries or reserves/increases in value related to non-resident entities which do not fulfil the participation exemption requirements) would be taxable. Capital gains obtained by EU resident entities are exempt from capital gain tax in Spain to the extent that the requirements for the application of the participation exemption regime are met, unless the assets of the transferred entity consist (directly or indirectly) mainly of real estate located in Spain.

[465] **TUR:** The provisions of any relevant double tax treaty should be taken into account. Where the disposal is between two non-resident parties, in general, no Turkish tax liability should arise provided that written share certificates are available.

[466] **EU/EEA:** In accordance with the terms of the EC Parent-Subsidiary Directive (PSD), distributions of profits (other than on a liquidation) to a parent company in one Member State by a subsidiary in another Member State are generally exempt from withholding tax provided a minimum 10% shareholding requirement is met. Member States have some flexibility over the implementation of the Directive - see additional individual country notes for country specific requirements.

A binding mandatory general antiabuse rule (GAAR) included in the PSD requires Member States to deny the dividend withholding tax exemption under the PSD in cases of tax avoidance – see additional individual country notes for country specific requirements.

[467] **SLOVAK:** Dividends paid/received are not generally subject to tax in Slovakia. Dividend income paid out of profits generated after 1 January 2004 is exempt from tax to the extent to which it is not tax deductible at the level of the payer company (i.e. hybrid finance instruments). For dividends paid from profits generated after 1 January 2017 by Slovak companies, the WHT rate is 0% where the beneficial owner of the dividends is a company resident in a country with which Slovakia has concluded a double tax treaty or tax information exchange agreement (TIEA); a 7% rate applies where the beneficial owner of the dividends is a private individual resident in such a country. A 35% WHT rate applies where the beneficial owner of the dividends (whether a company or an individual) is resident in a country with which Slovakia has not concluded a double tax treaty or TIEA.

[468] **SLOVEN:** 15% where dividends are deemed to be hidden profit distributions.

[469] **SA:** Generally, a 20% withholding tax (15% for dividends distributed prior to 22 February 2017) applies to dividends paid to non-residents by other South African companies, subject to relief under a relevant tax treaty. However, an HQC is not subject to withholding tax on dividends paid to non-residents.

[470] **SPA:** The 0% rate applies to distributions out of non-taxable income (qualifying foreign-source dividends and capital gains) provided the shareholder is not resident in Spain. Shareholders in tax haven jurisdictions cannot benefit from the 0% rate unless the tax haven territory is in the EU and it is evidenced that there is a sound business reason for the shareholder being based in such territory and the shareholder undertakes an economic activity. Where the dividends are paid out of taxable income (income other than qualifying dividends and gains from foreign subsidiaries), the general withholding tax rate applies.

[471] **SPA:** In the case of treaty countries, a reduced WHT may apply. The requirement is deemed to be met where the relevant treaty includes an exchange of information clause and irrespective of whether the recipient is resident in the EU. For the application of a 0% or reduced WHT rate the recipient entity should evidence its tax residence through a tax certificate (provided by the relevant local tax authorities and within the meaning of a double tax treaty, where applicable) which must be provided to the paying entity before any dividend, interest payment (or other source of income) is made or accrued. The tax certificate should be renewed every 12 months.

[472] **SPA:** Amongst other requirements, a minimum 5% shareholding or acquisition value in excess of EUR 20 million requirement applies for exemption from withholding tax under the EC Parent-Subsidiary Directive (as enacted in Spain). Where the majority of the voting rights of the recipient company are owned, directly or indirectly, by entities or individuals not tax resident in the EU/EEA certain restrictions ("targeted anti avoidance rules") may apply unless it can be proven that the incorporation and operations of the recipient entity are driven by valid economic and sound business reasons.

For the application of a 0% or reduced WHT rate the recipient entity should evidence its tax residence through a tax certificate (provided by the relevant local tax authorities and within the meaning of a double tax treaty, where applicable) which must be provided to the paying entity before any dividend, interest payment (or other source of income) is made or accrued. The tax certificate should be renewed every 12 months.

[473] **SWE:** A final withholding tax of 30% applies to dividends paid by a Swedish company to a foreign company. Sweden has implemented the EC Parent-Subsidiary Directive under which the dividend withholding tax rate can be reduced to 0% in certain situations. The 0% rate also applies if the receiving company is a "foreign company" (as defined in domestic legislation) regarded as equivalent to one of the Swedish entities included in a list, provided the shares held are business-related from a Swedish tax perspective. For quoted shares there is also a minimum holding requirement of one year prior to the dividend.

[474] **SWE:** A specific antiavoidance rule applies for withholding tax purposes.

[475] **SWI:** Under the bilateral agreement between Switzerland and the EU, the non-recoverable withholding tax rate on intragroup dividends amounts to 0% under conditions similar to those of the EC Parent-Subsidiary Directive. In general, the 0% withholding tax on dividend payments applies where: i) a parent company holds a direct minimum holding of 25% of the capital of a subsidiary for at least two years; ii) one company is resident for tax purposes in an EU Member State and the other company is resident in Switzerland, and neither company is tax resident in a third state and iii) both companies are subject to corporation tax without being exempted and both adopt the form of a limited company. Because Swiss holding companies are objectively subject to tax in Switzerland without being exempt for federal income tax purposes, the "subject to tax" provision should be met in Switzerland. This should be the case even though a Swiss company does not, in fact, pay any income tax because of the applicability of the participation exemption.

[476] **TUR:** The 15% domestic withholding tax rate on dividends applies where this is lower than the treaty rate.

[477] **TUR:** The 15% domestic withholding tax rate on dividends applies where this is lower.

[478] **SLOVAK:** Thin capitalisation rules restrict the maximum amount of tax deductible interest on related party loans to 25% of the taxpayer's "indicator" calculated as the sum of the accounting result of the debtor before tax and the amount of interest expense and fixed asset depreciation charges (accounting) included in the accounting profit (EBITDA). The rules apply to loans from both foreign and domestic lenders (related parties), and to both new and existing loans, as well as back to back loans.

[479] **SLOVEN:** Maximum permitted debt:equity ratio is 4:1. The restrictions apply not only to loans between parent and subsidiary companies but to loans between any related entities in a group where the lender has at least a 25% direct or indirect ownership in the borrower.

[480] **SA:** Thin capitalisation rules are not applicable to HQCs subject to the funds being on-lent to offshore subsidiaries provided 10% of the voting rights are held by the headquarter company.

[481] **SPA:** The tax deduction for net financial expenses derived from all types of indebtedness (including bank and third party debt) is limited to 30% of EBITDA (plus dividend income from qualifying subsidiaries) in the relevant financial year, although under safe harbour provisions, net borrowing costs of up to EUR 1 million per tax period are deductible. This restriction may be measured on a standalone basis or on a consolidated basis (where the Spanish HoldCo was a member of a CIT group).

Where the 30% net financial expense limit has not been reached, net financial expense deductions in the five following financial years will be increased accordingly. Also, any net financial expense above the 30% limit can be carried forward with the same limits.

The CIT consolidation rules have been amended and certain specific provisions regarding interest deductibility may apply where a Spanish HoldCo joins a new CIT Group.

In the case of intra-group debt: i) derived from acquisitions of subsidiaries from other group companies or ii) used to fund equity contributions to group companies, interest expenses are not tax deductible unless the taxpayer can evidence that the transaction is supported by sound business reasons. Transfer pricing regulations also apply (and interest expenses disallowed under transfer pricing rules may be considered as a "deemed dividend" distribution).

A special restriction applies on the deductibility of interest for leveraged acquisitions (see "Is interest on loans to acquire subsidiaries deductible against HoldCo's profits?").

Profit participating loans (PPLs), granted after 20 June 2014, are rechacterised as equity instruments and therefore accrued interest expenses on such loans are not deductible for CIT purposes. Additionally, expenses deriving from related-party transactions with an asymmetrical (i.e. hybrid) tax treatment, which generate no revenues, or for which the nominal tax rate is less than 10%, are not deductible.

As a result of implementing the BEPS recommendations and the provisions of the EU Anti-Tax Avoidance Directives (ATAD I and II), further restrictions may be specifically introduced in Spanish tax legislation.

[482] **SWE:** As a basic requirement, all interest rates must be set on an arm's length basis. In addition, Sweden operates a regime where deduction of interest expense on debt to certain affiliated entities is limited. The main rule is that interest expense on intra-group loans is non-deductible for tax purposes, regardless of the purpose or origin of the loan. There are two exceptions under which a deduction could be allowed: i) if the corresponding interest income is effectively taxed at a rate of at least 10% at the level of the beneficial owner and the main reason for the loan structure is not to obtain a substantial tax benefit on a group level or ii) if the interest income is taxed at a level below 10%, the taxpayer needs to demonstrate that the debt is based on predominantly sound business reasons. If the loan is related to an intra-group acquisition of shares, both the intra-group acquisition and the debt would have to be based on predominantly sound business reasons. For the purposes of this exception, consideration shall especially be given to whether the financing could have been made with a contribution rather than a loan. This exception is also not applicable if the beneficial owner of the interest income is tax resident in a non-treaty country outside the European Economic Area (EEA). A certain limitation also applies to third party back-to-back financing.

Sweden's interest deduction limitation rules are currently under review and new rules mainly in line with the European Anti-Tax Avoidance Directive were proposed in June 2017 but have not yet been adopted. The current rules restricting the deduction of interest expense on intragroup debt are proposed to be maintained with minor changes.

483 **SWI:** Debt:equity ratios are in general calculated on an asset test and interest payments have to comply with the arm's length principle. The Federal Tax Administration issues safe harbour interest rates on a yearly basis.

484 **TUR:** A company is deemed to be thinly capitalised if, at any time within an accounting period, related party loans exceed three times the equity at the start of the accounting period. Interest on the excess is disallowed. However, if the related party is a bank or finance company, there is a safe harbour debt:equity ratio of 6:1.

There is a potential additional restriction, a "Restriction on Financial Expenses" where the external borrowings of a company exceed its equity. In such cases, up to 10% of the interest, commission, penalties, dividends, foreign exchange losses and similar types of expense incurred on the excess (i.e. except for those expenses included in the cost of ongoing investments) shall not be deductible from the corporate income tax base, provided that the Council of Ministers passes a resolution in this regard. This regulation would not apply to credit institutions, financial institutions, finance leasing, factoring and financing companies. To date, the Council of Ministers has not passed the required resolution and hence the provisions are not in force.

485 **UK:** No "safe harbour" for thin cap purposes in the UK. Ratios for debt:equity and interest cover, which may not be relevant in all cases, are subject to negotiation with the UK authorities taking account of the specific circumstances of the company and industry in which it operates.

New interest restriction rules, in line with BEPS Action 4, were introduced with effect from 1 April 2017. The Fixed Ratio Rule is 30% of UK tax-EBITDA and there is a *de minimis* amount of GBP 2 million net interest per group. Groups are able to choose to apply a Group Ratio Rule based on the net interest to EBITDA ratio for the worldwide group instead of the Fixed Ratio Rule. Both rules are subject to further caps based broadly on the net interest expense of the worldwide group.

486 **SLOVAK:** No specific provisions. In general, interest expense is tax deductible, provided that it is: i) incurred for the purposes of the taxable activities (i.e. the expense is provably incurred in order to generate, ensure and maintain taxable income) and recorded in the books of the taxable party and ii) on arm's length terms (if the loan is granted by a related party). However, the tax authorities may view such expenses as non-deductible on the basis that the loan interest relates to dividends which are not taxed in Slovakia i.e. where there is not sufficient economic substance and reasoning, interest on such acquisition loans would be treated as not tax-deductible. (It should be noted that in a recent judgement, the Supreme Court of the Czech Republic held that the interest expense on an acquisition loan was not tax-deductible on the basis that the transaction had insufficient economic substance. Although the rulings of Czech courts are not binding in Slovakia, Czech and Slovak legislation in this area is very similar and the Slovak tax authorities may follow this decision.)

487 **SLOVEN:** However, a fixed amount of 5% of dividend income received is not tax deductible. This amount represents management and financing costs related to acquiring and managing a subsidiary.

488 **SA:** Interest is deductible to the extent that it is incurred in the production of income. Although the HQC will receive exempt income in the form of dividends from the subsidiaries, it may also receive taxable income e.g. management fees and interest.

489 **SPA:** The tax deduction for net financial expenses derived from all types of indebtedness (including bank and third party debt) is limited to 30% of EBITDA (plus dividend income from qualifying subsidiaries) in the relevant financial year, although under safe harbour provisions, net borrowing costs of up to EUR 1 million per tax period are deductible. This restriction may be measured on a standalone basis or on a consolidated basis (where the Spanish HoldCo was a member of a CIT group). See "Are there restrictions on interest deductibility?"

In the case of intra-group debt: i) derived from acquisitions of subsidiaries from other group companies or ii) used to fund equity contributions to group companies, interest expenses are not tax deductible unless the taxpayer can evidence that the transaction is supported by sound business reasons. Transfer pricing regulations also apply (and interest expenses disallowed under transfer pricing rules may be considered as a "deemed dividend" distribution).

A special restriction applies in the event of leveraged acquisitions of shares in other companies which are subsequently included into a consolidated group with the acquiring entity (or which are subsequently merged) within a four-year period, the interest expense associated with debts directly related to the acquisition of shares in an entity joining a tax group (or merged) will be deductible but limited to 30% of the tax EBITDA of the acquiring entity/group. The operating profit used to calculate EBITDA for these purposes would exclude profits obtained by the acquired entity or any other entity joining the tax group in any of the fiscal years starting in the four years following the acquisition. The limitation does not apply if the indebtedness is below 70% of the equity value of the subsidiary and the acquisition debt is reduced proportionally in the following eight years until the debt is reduced to 30% of the acquisition price.

Profit participating loans (PPLs), granted after 20 June 2014, are rechacterised as equity instruments and therefore accrued interest expenses on such loans are not deductible for CIT purposes. Additionally, expenses deriving from related-party transactions with an asymmetrical (i.e. hybrid) tax treatment, which generate no revenues, or for which the nominal tax rate is less than 10%, are not deductible.

As a result of implementing the BEPS recommendations and the provisions of the EU Anti-Tax Avoidance Directives (ATAD I and II), further restrictions may be specifically introduced in Spanish tax legislation.

490 **SWE:** As a main rule, interest deduction restrictions apply to all intra-group loans, regardless of the purpose or origin of the loan (see the note to "Are there restrictions on interest deductibility?"). Restrictions generally do not apply to external loans; however, third party back-to-back-financing may fall within the scope of the interest deduction restrictions. Furthermore, interest rates must be set on an arm's length basis for the interest to be deductible.

[491] **TUR:** The deduction of interest at the holding company level under certain debt pushdown strategies, following a merger with the target company, may be challenged by the tax authorities as Turkish tax legislation in this area is relatively new and untested.
[492] **EU/EEA:** For interest payments between directly associated companies in different EU Member States 0% withholding tax may apply, subject to satisfying the conditions in the EC Interest and Royalties Directive. "Directly associated" companies are those where one has a direct minimum holding of 25% in the capital of the other, or a third EU company has a direct minimum holding of 25% in the capital of both companies. Transitional provisions apply to some Member States – see additional individual country notes for country specific requirements.
[493] **SLOVAK:** 35% tax rate applies to interest payment to foreign parties resident in non-treaty countries not listed by the Ministry of Finance (i.e. generally countries with whom Slovakia does not have a double tax treaty or agreement on tax administration cooperation).
[494] **SLOVAK:** 0% tax rate applies to interest payments to EU related parties (who are the final beneficiaries of such income) with a direct shareholding of at least 25% or where a third legal entity has a direct holding of at least 25% in the registered capital of both the payer company and the final beneficiary of the interest income, for at least 24 months prior to the date of payment of the interest.
[495] **SA:** Interest payments made by a HQC to a non-resident are exempt from withholding tax; otherwise, interest payments to a non-resident are subject to 15% withholding tax.
[496] **SPA:** For the application of a 0% or reduced WHT rate the recipient entity should evidence its tax residence through a tax certificate (provided by the relevant local tax authorities and within the meaning of a double tax treaty, where applicable) which must be provided to the paying entity before any dividend, interest payment (or other source of income) is made or accrued. The tax certificate should be renewed every 12 months.
As a result of implementing the BEPS recommendations and the provisions of the EU Anti-Tax Avoidance Directives (ATAD I and II), further conditions may be specifically introduced in Spanish tax legislation.
[497] **SPA:** No withholding tax is imposed on interest paid to EU companies, irrespective of the lender's shareholding in the Spanish company (no minimum shareholding requirement applies). However, under the application of general anti-abuse provisions, the Spanish tax authorities may challenge the application of the 0% WHT rate where e.g. a portion of the borrowed funds could be traced to ultimately come from non-qualifying lenders. For the application of a 0% or reduced WHT rate the recipient entity should evidence its tax residence through a tax certificate (provided by the relevant local tax authorities and within the meaning of a double tax treaty, where applicable) which must be provided to the paying entity before any dividend, interest payment (or other source of income) is made or accrued. The tax certificate should be renewed every 12 months.
As a result of implementing the BEPS recommendations and the provisions of the EU Anti-Tax Avoidance Directives (ATAD I and II), further conditions may be specifically introduced in Spanish tax legislation.
[498] **SWE:** According to domestic law, Sweden does not levy withholding tax on interest payments. However, interest deduction restrictions may apply to intra-group loans and interest rates must be set on an arm's length basis for the interest to be deductible (see the note to "Are there restrictions on interest deductibility?").
[499] **SWI:** In general, there is no withholding tax on interest paid on loans. However, withholding tax could be levied under certain circumstances if the borrowing company qualifies as a bank or a collective fund borrower.
[500] **TUR:** Interest on loans payable to foreign states, international institutions, or foreign banks and foreign corporations that qualify as "financial entities" is subject to 0% withholding tax. The 10% rate applies to interest on loans from non-resident entities that are not authorised "financial entities". Interest payments to "other financial institutions" which are authorised to habitually provide credits in the country in which they are established and which provide credits not only to related companies but also to all individuals and legal entities, are eligible for the 0% withholding tax rate. Interest paid in respect of the sale of goods on credit is subject to 5% WHT. A 1% rate applies to interest paid for: i) credits received by banks as subordinated loans similar to equity in accordance to the Banking Law No 5411 and ii) credits received by banks and other corporations by way of securitisation abroad.
[501] **SLOVAK:** A liquidation surplus paid out by a Slovakian company is not subject to WHT where the beneficial owner of the surplus is a company resident in a country with which Slovakia has concluded a double tax treaty or tax information exchange agreement (TIEA); a 7% rate applies where the beneficial owner is a private individual resident in such a country. A 35% WHT rate applies where the beneficial owner of the surplus (whether a company or an individual) is resident in a country with which Slovakia has not concluded a double tax treaty or TIEA.
[502] **SLOVEN:** Withholding tax applies where the liquidation payment is classified as income similar to dividends as defined in Slovenian corporate income tax law. The payment is then treated as a deemed dividend, subject to 15% withholding tax.
[503] **SA:** Withholding tax may apply if the payment is a dividend.
[504] **SPA:** Exemption applies provided all investments are qualifying. Capital tax of 1% is charged on the real value of assets returned.
[505] **SWE:** A 0% rate applies if the parent company is a company listed in the EC Parent-Subsidiary Directive and controls at least 10% of the share capital of the distributing company. The 0% rate also applies if the receiving company is a "foreign company" (as defined in domestic legislation) regarded as equivalent to one of the Swedish entities included in a list provided that the shares held are considered business-related from a Swedish tax perspective. If not business-related, the domestic 30% rate or a reduced treaty rate applies. For quoted shares, there are also certain holding period requirements for the 0% rate to apply. A specific antiavoidance rule applies for withholding tax purposes.
[506] **SWI:** The repayment of nominal share capital is exempt from withholding tax. The repayment of capital surplus created after 1 January 1997 is also exempt from withholding tax under certain conditions.

[507] **TUR:** Dividend withholding tax is due on any profits arising during the liquidation period. No withholding tax is payable on the return of cash paid-in capital following liquidation.
[508] **EU/EEA:** A binding mandatory general antiabuse rule (GAAR) included in the EC Parent-Subsidiary Directive (PSD) requires Member States to deny any tax exemption under the PSD for dividends received where the payment of the dividends resulted in a decrease in the taxable base of a distributing entity that is tax resident in another EU Member State. See additional individual country notes for country specific requirements.
[509] **SLOVAK:** Dividends paid/received are not generally subject to tax in Slovakia. Dividend income paid out of profits generated after 1 January 2004 is exempt from tax to the extent to which it is not tax deductible at the level of the payer company (i.e. hybrid finance instruments). Dividends received from a resident of non-treaty country (i.e. a country with which Slovakia has not concluded a double tax treaty or TIEA) are subject to tax at 35% in Slovakia.
[510] **SLOVEN:** No exemption for dividends is available if the foreign subsidiary is tax resident in a non-EU Member State where the corporate income tax rate is below 12.5% and the country is on a black list of countries issued by the Ministry of Finance. Expenses related to a participation are not tax deductible up to 5% of the dividends received in the tax period.
[511] **SA:** Foreign dividends received by an HQC are not subject to tax, provided that the HQC holds at least 10% of the equity shares and voting rights in the foreign company declaring and paying the dividends. Dividends paid by an HQC are also exempt from withholding tax on dividends and normal tax.
[512] **SWE:** Exemption is available if the shares held are "business-related" and the subsidiary is regarded as equivalent to a Swedish limited liability company (not required if the subsidiary qualifies under the EC Parent-Subsidiary Directive). Unquoted shares held as capital assets are always deemed business-related. Quoted shares are business-related if 10% or more of the votes are held or if the company can demonstrate that the shares are held for business purposes. Shares held as trading assets/inventory will not qualify for exemption. If the subsidiary qualifies under the Parent-Subsidiary Directive, the shares may be deemed business-related even if less than 10% of the share capital is held (if quoted shares) and even if the shares are held as trading assets/inventory. Where the exemptions do not apply, dividends are taxed at the standard tax rate of 22%.
Even if qualifying for the exemption above, dividends will not be tax exempt where the company paying the dividend is entitled to a deduction as interest or similar for the amount paid.
[513] **SWI:** At the federal level, the participation relief regime applies, consisting of a reduction of income tax in the proportion of "net investment income" to the total net income of the holding company. To calculate net investment income, earnings from investments are subject to a deduction of proportionate financing costs incurred in connection with financing the investments, together with a deduction for administrative costs of 5% of the gross participation income or the effective administrative costs, if lower. At a cantonal and communal level, dividends are exempt from taxation provided the conditions of the holding privilege are met.
[514] **TUR:** To qualify for exemption, in addition to minimum shareholding, holding period and effective tax rate criteria, the earnings must be repatriated to Turkey before submission of the corporate tax return. The exemption method may be used under a limited number of treaties.
[515] **UK:** Dividends are taxable unless they fall into one of five broad categories for exemption. The exemption is not available if the dividend is tax deductible for the payer.
[516] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company’s country of residence. The precise circumstances must be carefully considered.
[517] **SLOVEN:** No specific regulations; each case must be considered individually.
[518] **SA:** Foreign companies are not required to meet any holding requirements but where a HQC's gross income for a year of assessment exceeds R5 million, 50% or more of the gross income should consist of one or both of the following amounts: i) rental, dividends, interest, royalties or service fees paid by qualifying foreign companies and/or ii) proceeds from the disposal of equity shares in a foreign company or IP licensed to qualifying foreign companies.
[519] **SPA:** There is no specific substance requirement for foreign subsidiaries. Subsidiaries in tax haven jurisdictions cannot benefit from the exemption unless the tax haven territory is in the EU and it is evidenced that there is a sound business reason for the subsidiary being based in such territory and the subsidiary undertakes an economic activity. The application of CFC rules in Spain has been strengthened and should be carefully considered.
[520] **SWE:** There are no substance requirements. To qualify for the domestic participation exemption, the foreign subsidiary must be considered equivalent to one of the Swedish entities covered by the rules and subject to tax in its home state. Sweden applies CFC rules.
[521] **TUR:** Turkish CFC rules should be taken into account.
[522] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company’s country of residence. The precise circumstances must be carefully considered.
[523] **SPA:** The subsidiary must be subject to a minimum tax rate of 10% (nominal) and to a tax similar in nature to the Spanish corporate income tax. In the case of treaty countries, this requirement is deemed to be met where the relevant treaty includes an exchange of information clause.
Broadly speaking, a proportional exemption applies to dividends distributed by non-resident entities when the requirements were not met throughout the entire holding period. The exemption applies in proportion to the years in which the requirements were effectively met. In case of multi-tiered structures, only dividends and capital gains derived from qualifying subsidiaries would benefit from the exemption.
[524] **SWE:** There are no substance requirements. To qualify for the domestic participation exemption, the foreign subsidiary must be considered equivalent to one of the Swedish entities covered by the rules and subject to tax in its home state. Sweden applies CFC rules.

[525] **TUR:** Exemption requirements: the minimum local tax burden on the earnings must be at least 15%. For financial institutions, providers of insurance services and investors in securities, the minimum local tax burden must be similar to that in Turkey, and assessed in accordance with Turkish income and corporation tax rates.
[526] **SPA:** Prior holding periods by other group companies are included in the holding period requirement. Dividends distributed before the one-year period has elapsed will be subject to withholding tax but the recipient of the dividend will be entitled to a refund of the withholding tax once the one-year period has passed.
[527] **SWE:** No holding period for unquoted shares. For quoted shares, a one-year holding requirement exists. Dividends received within the one-year period are tax exempt provided the shares are not disposed of before the end of that period.
[528] **SA:** Each shareholder (alone or together with any other company forming part of the same group of companies as the shareholder) must hold 10% or more of the equity shares and voting rights in the company.
[529] **SWE:** Exemption is available if shares are "business-related" and the subsidiary is regarded as equivalent to a Swedish limited liability company (not required if the subsidiary qualifies under the EC Parent-Subsidiary Directive). Unquoted shares held as capital assets are always deemed business-related. Quoted shares are business-related if 10% or more of the votes are held or if the company can demonstrate that the shares are business-related. Shares held as trading assets/inventory will not qualify for exemption. If the subsidiary qualifies under the Parent-Subsidiary Directive, the shares may be deemed business-related even if 10% of the share capital is held (if quoted shares) and even if the shares are held as trading assets/inventory.
[530] **UK:** The dividend exemption regime does not impose a percentage ownership requirement. There are five separate exemption categories and the dividend only needs to fall within one to be exempt. Two of these categories, the controlled companies and portfolio holdings exemptions, do have ownership requirements but the other three do not.
[531] **SLOVAK:** A capital gains participation exemption applies as from 1 January 2018 to gains on the sale of shares in a joint stock company, limited liability company or limited partnership; or from the sale of shares in a company with a comparable legal form, which is settled abroad and which is either a taxpayer with unlimited tax liability or a taxpayer with limited tax liability with a permanent establishment. The exemption does not apply to a taxpayer whose core business is trading in securities.
The exemption will apply if:
i) The seller owns a direct holding of at least 10% of the registered capital of the company being disposed of and holds the interest for at least 24 consecutive calendar months prior to disposal; and
ii) The taxpayer (seller) carries out essential functions in Slovakian territory, manages and bears the risks related to ownership of shares/ownership interest, and possesses the personnel and material equipment required to perform the respective functions.
Where the exemption does not apply, gains are taxable at the standard corporate income tax rate of 21%. However a relevant double tax treaty may provide more beneficial treatment.
[532] **SLOVEN:** A 50% exemption applies if: i) at least 8% of the share capital has been held for at least six months; ii) the Slovenian parent company employs at least one full-time employee and iii) the subsidiary is not resident in a country where the corporate income tax rate is lower than 12.5% and which is listed on a list of countries published by the Ministry of Finance. Expenses related to participation are not tax deductible up to 5% of exempt capital gains (2.5% of realised capital gains).
[533] **SA:** Where a HQC sells its shares in a foreign company, it will be exempt from CGT where it (whether alone or together with any other person forming part of the same group of companies as that HQC) holds at least 10% of the equity shares and voting rights in the foreign company.
[534] **SWE:** Capital gains on the sale of "business-related" shares are tax-exempt provided the shares sold are in a company regarded as equivalent to a Swedish limited liability company. Gains on the sale of shares held as portfolio investments are taxed at the 22% corporate tax rate. In the case of a domestic or cross-border intragroup transfer (share-for-share or straight transfer), tax may be deferred if certain conditions are satisfied. Taxation of external share-for-share transfers may also be deferred.
[535] **SWI:** At the federal level, the participation relief regime applies, consisting of a reduction of income tax in the proportion of "net investment income" to the total net income of the holding company. To calculate net investment income, earnings from investments are subject to a deduction of proportionate financing costs incurred in connection with financing the investments, together with a deduction for administrative costs of 5% of the gross participation income or the effective administrative costs, if lower. At a cantonal and communal level, capital gains are exempt from taxation provided the conditions of the holding privilege are met.
[536] **TUR:** General exemption: 75% of the gain arising from the sale of Turkish participations and 50% of the gain arising from the sale of immovable property (75% prior to 5 December 2017), is exempt from corporation tax provided the shares have been held for at least two years. Otherwise, the gains are subject to corporation tax at 20% (22% for the 2018, 2019 and 2020 fiscal years). Where the holding company is liquidated within five years of such a disposal, the earlier gains are taxed in the year of liquidation.
Specific exemption (International Holding Company Regime): An exemption for capital gains derived from the sale of foreign participations may be granted if all of the following conditions are satisfied: i) at least 75% of the total assets (excluding liquid assets) as at the date of sale comprise foreign participations held for a continuous period of at least one year; ii) at least a 10% holding is held in the capital of a foreign participation which has the status of a joint stock company (A.S.) or limited liability company (Ltd. Sti.) and iii) the shares have been held for at least two full years as at the date of disposal.
[537] **UK:** In accordance with the "substantial shareholding exemption" the gain will generally be exempt. A number of conditions must be satisfied, including that the subsidiary disposed of is a trading company, or the holding company of a trading group or subgroup before the disposal. Otherwise, the holding company will be taxed at the standard corporate tax rate on the gain.

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In addition to the main exemption discussed in this document, there are a number of additional “subsidiary exemptions” which can apply with the same effect in certain additional situations not covered by the main exemption. These include a new subsidiary exemption, available from 1 April 2017, which can extend the exemption to disposals of shareholdings in non-trading investments, dependent on whether 80% or more of the disposing company is owned by “qualifying institutional investors” such as pension schemes, charities, sovereign wealth funds and investment trusts (with a partial exemption available if the ownership is instead between 25% and 80%).

[538] **SLOVAK:** Capital losses on the sale of shares are generally not deductible. However, a loss on the sale of shares in a joint stock company may be offset against gains from the disposal of shares in other joint stock companies.

[539] **SLOVEN:** Under certain conditions, only 50% of capital losses are deductible.

[540] **SPA:** Capital losses on the disposal of shares/participations shares are not deductible if:

i) for Spanish/foreign resident subsidiaries with a substantive stake: where the parent has an equity stake of at least 5% or an acquisition cost exceeding EUR 20 million (at any time during the financial year prior to the date on which the transfer takes place); or

ii) for foreign resident subsidiaries with a non-substantive stake: where the subsidiary is not subject to a minimum tax rate of 10% (nominal) and to a tax similar in nature to the Spanish corporate income tax (CIT); or

iii) for tax haven resident subsidiaries: unless the subsidiary is a EU tax resident entity which it is proved has been incorporated for sound business reasons.

Where none of these three scenarios apply, capital losses arising on the disposal of participations are deductible at the level of the Spanish parent entity, subject to the following restrictions:

i) any gain treated as exempt (or offset with a double tax credit) for CIT purposes derived from an earlier disposal of a qualifying subsidiary reduces the portion of the deductible capital loss where the entities involved are related entities (as defined in Article 42 Commercial Code); and

ii) any dividend coming from the relevant subsidiary after FY 2009 and treated as exempt for CIT purposes would generally reduce the portion of the deductible capital loss.

However, such capital loss should be reduced by any dividend which has come from the relevant subsidiary/ies and treated as exempt (through the application of the participation exemption regime or a double tax credit) in the last 10 years.

[541] **SWE:** Capital losses on "business-related" shares are generally not deductible and losses on unquoted shares are never deductible. Capital losses on portfolio investments in quoted shares are deductible from capital gains on such investments, provided certain conditions are met.

[542] **SWI:** Capital losses are deductible at the federal tax level. There is no deductibility at the cantonal and communal level based on the general income tax exemption.

[543] **TUR:** Capital losses are generally deductible from other taxable profits. However, there are conflicting opinions on the deductibility of losses derived from the sale of shares. A tax ruling should be sought.

[544] **UK:** In accordance with the "substantial shareholding exemption" the loss will generally be exempt. A number of conditions must be satisfied for the exemption to apply, including that the subsidiary disposed of is a trading company or the holding company of a trading group or subgroup before the disposal. If these conditions are not met, the capital loss should be allowable.

[545] **SLOVEN:** Write-downs are only tax deductible in the period of disposal of the investment.

[546] **SPA:** The write-down in value of shares is not tax deductible against other taxable profits of an ETVE or other group companies (if an ETVE is a member of a Spanish tax group). There are some specific rules to reverse any write-down in value of shares registered prior to 1 January 2013 which was considered deductible for CIT purposes.

[547] **SWE:** No exemptions are available.

[548] **SWI:** Federal level only but clawback upon sale. The difference between the lower book value and the higher acquisition cost is taxed as ordinary income; the amount exceeding the acquisition cost is subject to participation relief.

[549] **UK:** May be possible to claim a capital loss if the value of a subsidiary has become negligible but only where the substantial shareholding exemption would not apply.

[550] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company’s country of residence. The precise circumstances must be carefully considered.

[551] **SA:** No but where a HQC's gross income for a year of assessment exceeds R5 million, 50% or more of the gross income should consist of one or both of the following amounts: i) rental, dividends, interest, royalties or fees paid by qualifying foreign companies and/or ii) proceeds from the disposal of foreign shares or IP licensed to qualifying foreign companies.

[552] **SPA:** Capital gains derived from the transfer of shares do not benefit from the participation exemption regime when: i) the subsidiary has registered CFC income at least 15% or ii) the gains are derived from the transfer of shares in a passive income company (*Sociedad Patrimonial*). A proportional exemption applies to gains arising on the transfer of shares in non-resident entities when the requirements were not met throughout the entire holding period. The exemption applies in proportion to the years in which the requirements were effectively met.

[553] **SWE:** There are no substance requirements. To qualify for the domestic participation exemption, the foreign subsidiary must be considered equivalent to a Swedish limited liability company or a Swedish partnership. One criterion to consider is if the foreign company is subject to tax in its home state. Sweden applies CFC rules.

[554] **UK:** The foreign subsidiary must be a trading company or the holding company of a trading group or trading sub-group before the sale.

[555] In many countries, whilst there may not be specific requirements for the subsidiary to be subject to a certain level of tax or meet specified substance criteria, CFC or equivalent legislation may apply to effectively tax income received by the subsidiary in the holding company's country of residence. The precise circumstances must be carefully considered.
[556] **SLOVEN:** No exemption for capital gains is available if the foreign subsidiary is tax resident in a non-EU Member State where the corporate income tax rate is below 12.5% and the country is on a black list of countries issued by the Ministry of Finance. Expenses related to a participation are not tax deductible up to 5% of the dividends received in the tax period.
[557] **SPA:** The subsidiary must be subject to a tax similar to CIT at a rate of at least 10%. The latter requirement is deemed to be met if Spain has signed a double tax treaty containing an exchange of information clause with the relevant country. Subsidiaries in tax haven jurisdictions cannot benefit from the exemption unless the tax haven territory is in the EU and it is evidenced that there is a sound business reason for the subsidiary being based in such territory and the subsidiary undertakes an economic activity. In the case of treaty countries, the requirement is deemed to be met where the relevant treaty includes an exchange of information clause. A proportional exemption applies to gains arising on the transfer of holdings in non-resident entities when the requirements were not met throughout the entire holding period. The exemption applies in proportion to the years in which the requirements were effectively met.
In the case of multi-tiered structures, only dividends and capital gains derived from qualifying subsidiaries would benefit from the exemption.
[558] **SWE:** To qualify for the domestic participation exemption, the foreign subsidiary must be considered equivalent to a Swedish limited liability company or a Swedish partnership. One criterion to consider is if the foreign company is subject to tax in its home state. Sweden applies CFC rules.
[559] **SPA:** Measured from the date of transfer of shares. Prior holding periods by other group companies qualify for the holding period requirement.
[560] **SWE:** No holding period for unquoted shares. One-year holding requirement for quoted shares.
[561] **TUR:** For both the general exemption and exemption under the International Holding Company Regime.
[562] **UK:** For the exemption to apply, shares must be held for a continuous 12-month period beginning not more than six years before the day on which the disposal takes place.
[563] **SWE:** Exemption is available for "business-related" shares if the shares sold are shares held in a company considered equivalent to a Swedish limited liability company or a Swedish partnership. Unquoted shares are always considered business-related. For quoted shares, a holding of 10% or more of the votes is required or the company must demonstrate that the shares are business-related. Shares held as trading assets/inventory will not qualify for exemption.
[564] **TUR:** No minimum holding requirement for the general exemption. 10% ownership requirement for the specific exemption under the International Holding Company Regime.
[565] **SWE:** Sweden operates a tax consolidation regime whereby contributions between Swedish companies may be used – subject to certain conditions – as a means of equalising taxable profits and losses (group contributions). If the required conditions are met, a contribution is tax deductible for the contributing company and taxable for the receiving company.
[566] **UK:** Although tax consolidation is not available, a number of specific reliefs are available for UK group companies, including the surrender of losses between UK group companies, the transfer of assets between UK group companies without crystallising capital gains/losses and arrangements to make single tax payments on behalf of the UK group. The surrender of losses includes tax losses incurred by the foreign subsidiaries of UK groups where the foreign subsidiaries are resident in the EEA or have incurred the relevant loss in a PE in the EEA and all possibilities for relief for the losses have been exhausted and future relief is unavailable in the country where they were incurred or any other country. When and to what extent such losses can be surrendered is still however subject to debate in the UK.