



**Step 1:**  
*Identification  
of reporting  
undertakings*

An **undertaking** (any entity regardless of its legal form) in an **EU state**.

Yes

The undertaking is explicitly **excluded from the scope of the directive** (listed entities, regulated financial entities, same country holding structures, 5 FTE employees).

No

**The undertaking passes all three gateways:**

1. More than **75%** of revenues for the last two tax years is **relevant income** (mainly passive and lease income).
2. More than **60% of relevant income** is earned or paid out via cross-border transactions or more than **60% of assets located abroad** in the last two tax years.
3. Administration of day-to-day decision operations and decision-making on significant functions **outsourced** in the last two tax years.

Yes

**Reporting obligation**

The undertaking is obliged to report information regarding minimum substance requirements in annual tax return:  
a) Undertaking owns / exclusively uses premises in respective Member State;  
b) Undertaking has active bank account in EU; and  
c) One director or majority of employees tax resident in the given Member State.

If the undertaking does not meet any of the requirements, additional evidence may be submitted (additional evidence of commercial rationale, decision-making taking place in the state, employee profiles, etc).

No

**Not entitled to benefits / Potential risks**

The 'at risk' undertaking **loses entitlement to benefits** under double tax treaties and EU Directives (source state applies look-through approach) but **remains tax resident** for local tax purposes.

No

Yes

No

**No impact**

**No reporting obligation or impact on benefits** under double tax treaties or EU Directives.

Yes

**Entitled to benefits**

The 'at risk' undertaking **remains entitled to benefits** under double tax treaties and EU Directives.



**Step 2:**  
*Evaluation  
of minimum  
substance  
requirements*

We recommend you analyse whether the new obligations could have an impact on your company. Should you have any doubt whether these obligations are applicable for your company, or should you need assistance in relation to the new rules, please do not hesitate to contact us.