LOYENS & LOEFF

LAW & TAX

Taxation of cross-border investments in and from CEE countries 2021

Including comparison with Loyens & Loeff home jurisdictions, Cyprus and Malta

Introduction

Loyens & Loeff

Loyens & Loeff is a leading firm and a logical choice when selecting a legal and tax partner if you are doing business in or from our home markets of the Netherlands, Belgium, Luxembourg and Switzerland. Our expertise includes the tax and legal aspects of mergers and acquisitions, restructurings, IPOs, structured and project financing, real estate investments, leasing transactions, intellectual property rights and much more. With a hundred-year track record of international (corporate) tax advice, today our team consists of high-level specialists including 350 international tax lawyers and 500 corporate/regulatory lawyers working from our offices in all the major global financial centres.

Through this integrated office network, you have access to Loyens & Loeff's full-service legal expertise across multiple time zones, complemented by our many country desks, each of which boasts specialists experienced in structuring investments around the world. And our reach goes further still, leveraging strong, long-standing relationships with other leading independent law firms and tax consultants in Europe, the United States, Russia and beyond.

This makes Loyens & Loeff the logical choice for large and medium-size enterprises, as well as banks and other financial institutions that operate on the international stage. The evidence is clear, with Loyens & Loeff winning the Who's Who Global Corporate Tax Firm 2016 Award and coming out top for tax advice in the 2015 editions of Legal 500, Chambers Global, Chambers Europe and World Tax.

A team for Central and Eastern Europe (CEE)

Since the accession of many new countries to the European Union in 2004, 2007 and 2013, predominantly from the CEE region, there has been an increase in the flow of inbound and outbound investments across these new EU member states. In order to establish a clearer picture of developments in the CEE region, Loyens & Loeff created a dedicated team of expert attorneys and tax advisers in 2002, each with extensive experience in advising clients on transactions specifically relating to the CEE region. Over time, with EU accession of Romania, Bulgaria and Croatia, the CEE team also expanded its activities into South Eastern Europe (SEE). The CEE team is and has been involved in many investment structures, in no small part due to the fact that the Netherlands and Luxembourg often act as stepping stone for investments of non-EU investors into the region.

A comparison of CEE countries

The CEE team has developed and maintained this concise and practical publication so tax practitioners can compare the main features of the tax regimes of our home markets and the member states that joined the European Union since 2004. It is intended as a tool for an initial comparison, with specific reference to holding companies that may also engage in financing and/or licensing activities, taking into account the impact of the EU GAAR. This document should not be used as a substitute for obtaining local tax advice.

We hope that this publication will find its permanent place on the desks of practitioners involved in international tax planning in relation to these countries, and we gratefully acknowledge the contributions of each firm (listed below) who provided information on the various jurisdictions.

Belgium	Loyens & Loeff	loyensloeff.com
Bulgaria	Djingov, Gouginski, Kyutchukov & Velichkov	dgkv.com
Croatia	Karanovic & Partners	karanovicpartners.com
Cyprus	Elias Neocleous & Co LLC	neo.law
Czech Republic	White & Case LLP	whitecase.com
Estonia	Sorainen	sorainen.ee
Hungary	Jalsovszky	jalsovszky.com
Latvia	Sorainen	sorainen.lv
Lithuania	Sorainen	sorainen.lt
Luxembourg	Loyens & Loeff	loyensloeff.com
Malta	Francis J. Vassallo & Associates Limited	fjvassallo.com
Poland	MDDP Tax Advisory Company	mddp.pl
Romania	Nestor Nestor Diculescu Kingston Petersen	nndkp.com
Slovakia	PRK Partners s.r.o.	prkpartners.sk
Slovenia	Karanovic & Partners	karanovicpartners.com
Switzerland	Loyens & Loeff	loyensloeff.ch
The Netherlands	Loyens & Loeff	loyensloeff.com

The information contained in this publication is based on the applicable laws in effect as per 1 January 2021.

Yours sincerely,

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Part I

Belgium, the Netherlands, Luxembourg, Switzerland

1. Capital tax / stamp duty / real estate transfer tax / real estate tax

Belgium

Capital tax
There is no capital contribution tax in Belgium.

Stamp duty
There is a flat fee of EUR 50.

Real estate transfer tax
The sale of real estate in full ownership (or the sale of residual property rights, such as usufruct or bare ownership) is subject to a 10% (Flemish region) or 12.5% (Brussels Capital and Walloon Regions) transfer tax, unless VAT applies. A contribution of real estate into a company compensated with shares is exempt from transfer tax unless it concerns a private dwelling, subject to conditions. This transfer tax is computed on the acquisition value of the real estate or its fair market value, whichever is higher.

The Netherlands

Capital tax
There is no tax on capital contributions in the Netherlands.

Stamp duty
There is no stamp duty in the Netherlands.

Real estate transfer tax
The transfer of Dutch real estate is subject to real estate transfer tax at the level of the acquirer. The transfer of shares in an entity that holds at least 30% Dutch real estate may also be subject to real estate transfer tax (RETT).

Currently, the default tax rate is 8%. A 2% rate applies for residential units for personal dwellings. First-time buyers of personal dwellings between ages 18-35 should qualify for a 0% RETT rate instead of the 2% RETT rate.

Real estate tax
Real estate tax is due over the value as assessed by the municipality. The tax rate is a certain percentage of that value (rates may vary per municipality).

Luxembourg

Capital tax
There is no ad valorem tax on capital contributions in Luxembourg. The incorporation of a Luxembourg company is subject to a fixed registration duty of EUR 75.

Stamp duty
No ad valorem stamp duty is levied upon the transfer of shares in a Luxembourg company.

Real estate transfer tax
In general, the transfer of ownership in Luxembourg real estate triggers aggregate transfer duty of 10% (for real estate situated in Luxembourg City) and 7% (for real estate located outside of Luxembourg City).

The aforementioned transfer duty will also be applicable upon indirect transfers of real estate via the transfer of interest in a partnership owning real estate. The transfer of real estate to a company in exchange for shares may benefit from reduced transfer duties. Certain exemptions are available regarding transfers occurring in the course of internal group reorganizations.

Real estate tax
Luxembourg municipalities levy a real estate tax on Luxembourg real estate based on the real estate's unit value. The unit value is determined pursuant to specific legislative provisions and is typically much lower than the actual market value (generally 5% to 10% of actual market value).

Switzerland

Capital tax
Capital tax is levied annually on companies' net equity at cantonal / communal level (see Section 2.1, sub-section 'capital tax').

Issuance stamp duty
1% of the amount contributed (fair market value) with a minimum equal to the nominal value of the shares issued.

Exemptions
Exemptions apply, inter alia, in the following cases:
- share capital up to an amount of CHF 1 million;
- immigration of a company; and
- on the basis of the Merger Act and a Circular issued by the Swiss federal tax authorities concerning the tax consequences of this law, exemptions are available for:
  - (i) mergers, divisions transformations;
  - (ii) contributions of separate business activity or qualifying participations, and
  - (iii) financial restructurings up to an amount of CHF 10 million.

For exemptions based on the Merger Act and the Circular issued in relation thereto, it is highly recommended to obtain an advance tax ruling.

Transfer stamp duty
See Section 2.3, sub-section 'Transfer stamp tax'.

Belgium	The Netherlands	Luxembourg	Switzerland
		The basic rate of real estate tax varies from 0.7% to 1% (depending on the classification of the property) and is multiplied by municipal coefficients fixed by each municipality which depends on the classification of the real estate (for Luxembourg city from 250% to 750%).	**Real estate transfer tax** No real estate transfer tax is levied at the federal level. Most cantons levy a real estate transfer tax. For the calculations of the tax, real estate is usually valued at its market value or fiscal value. Tax rates depend on the canton / community in which real estate is situated and vary from 0% to 3.3%. In addition to that, land register costs, notary fees and tax fees on mortgages may apply. Exemptions may apply for mergers, divisions, transformations or other qualifying restructuring.

2. Corporate income tax (CIT)

2.1 CIT and wealth taxes

Belgium

As from 2020, the standard CIT rate is 25% Under certain conditions, SMEs can benefit from a reduced rate of 20% on the first tranche of EUR 100,000 taxable income.

Minimum taxable base

30% of the taxable income exceeding a first tranche of EUR1 million will qualify as a minimum effective taxable basis. The minimum taxable basis will be determined as follows:

1. The taxable basis is determined and (in this order) the following are deducted: exempt dividends, patent income deduction, innovation deduction, investment deduction and group contribution deduction (as from FY 2019).
2. If after those deductions, the remaining taxable basis exceeds EUR 1 million, the following deductions can only be applied to 70% of the taxable basis exceeding EUR 1 million, in the following order: the current year notional interest deduction, the carry-forward dividends received deduction, the carry-forward innovation deduction, the carry-forward losses, and finally, the carry-forward notional interest deduction.

The excess deductions are carried forward to the following years. An exception to the minimal taxable basis exists for carry-forward tax losses incurred by start-up companies during the first four taxable periods.

The Netherlands

Currently, the standard rate is 25% for all taxable profits exceeding 245,000. A lower rate of 15% applies to the first EUR 245,000 of taxable profits. As of 1 January 2022, the lower rate will apply to the first EUR 395,000.

The Tax Plan 2022 includes a proposal to increase the standard rate from 25% to 25.8% as of 1 January 2022.

Wealth tax

There is no wealth tax in the Netherlands.

Luxembourg

Effective combined maximum rate applicable to profits is 24.94% in 2021, of national CIT, municipal business tax (Luxembourg City rate) and contribution to the unemployment fund. In addition, companies that have an annual taxable income of maximum EUR 175,000 are subject to CIT at a reduced rate of 15% (resulting in a combined rate of 22.8%).

Net wealth tax

Annual net wealth tax is levied on the fair market value of the net assets of a company as per January 1 of each year. The first EUR 500 million of taxable net wealth are taxed at a rate of 0.5% and a reduced rate of 0.05% applies to any excess.

Participations that qualify for the participation exemption on dividends are exempt from net wealth tax. See Section 2.2 below for the applicable conditions, (the 12-month holding period requirement does not apply for the exemption from net wealth tax).

Minimum net wealth tax

Companies having their statutory seat or place of effective management in Luxembourg whose assets

(i) consist for more than 90% of financial fixed assets, transferable securities and cash items (‘Financial Assets’) and
(ii) exceed EUR 350,000 are subject to an annual minimum net wealth tax of EUR 4,815.

Switzerland

Taxes are levied at three levels, the federal, cantonal and communal levels.

As of January 2020, the measures relating to the Tax Reform and AHV Financing (TRAF) entered into force. In consequence, previous special tax regimes have been abolished while other new measures were implemented in order to maintain an attractive tax environment after the abolishment of the special tax regimes. Those measures vary on cantonal level depending on their implementation. They include for example the following measures:

- Introduction of a Patent box
- R&D super-deduction (additional deductions of up to 50% for research and development expenses)
- Deduction for equity-financing (notional interest deduction; in the canton of Zurich only)
- Lower cantonal corporate income tax rates and capital tax rates or adjustment of the respective tax bases for the assessment of the capital tax.
- Step-up upon migration or transfer of business operations/functions to Switzerland
- Step-up as a transition mechanism for companies if an applicable tax regime ends. Two different models available: Depreciation Model (depreciation on built-in gains/ goodwill) and Separate Rate (taxation of income at a separate, reduced rate)

Belgium	The Netherlands	Luxembourg	Switzerland
Notional interest deduction The notional interest deduction may further reduce the effective tax rate, depending on the company's equity position. The notional interest deduction allows Belgian companies to deduct a notional amount from their taxable income. The notional amount is calculated on the incremental risk capital which equals 1/5 of the positive difference between the net equity at the beginning of the year concerned and the net equity at the beginning of the fifth preceding year. Specific conditions apply. As from 2020, the notional interest deduction onl applies to so-called small companies according to Belgian corporate law. **Liquidation reserve** A so-called small company according to the Belgian corporate law is, under certain conditions, allowed to include a 'liquidation reserve' in its financial accounts. Such 'liquidation reserve' is constituted of the profit after taxes of a certain financial year which is allocated to an unavailable reserve account. At the time the 'liquidation reserve' is reported in the financial accounts, that profit is taxed at a separate CIT rate of 10%, the so-called 'advanced taxation'. The advanced taxation relates to the financial year in which the 'liquidation reserve' has been reported in the financial accounts.		In case the two abovementioned thresholds are not cumulatively met, the amount of minimum net wealth tax due depends on the balance sheet total of the taxpayer at the end of the relevant fiscal year, with a minimum of EUR 535 and a maximum of EUR 32,100.	Taxes are deductible for calculating taxable income. Consequently, effective tax rates are lower than the statutory rates. **Federal** The federal statutory CIT rate is 8.5%. The effective rate of federal CIT is approximately 7.8%. **Cantonal and communal tax** Rates vary per canton and municipality. The combined statutory cantonal and communal tax rates generally vary between 5% and 20%. The communal tax is levied as a percentage of the cantonal tax and follows the same rules. **Total** The total (federal, cantonal and communal) effective CIT rate generally ranges between 12% and 22%. **Capital tax (=net wealth tax)** Annual cantonal and communal capital tax is levied on the net equity of a company. The effective rates generally range between 0.001% and 0.50%.

Belgium	The Netherlands	Luxembourg	Switzerland
Minimum Remuneration In order to apply the reduced corporate income tax rate, a company should pay a minimum annual remuneration of the lower of EUR 45,000 or the taxable basis to one of its individual managers. For affiliated companies of which at least half of the directors are the same people, the total amount of the minimum director fee has to amount to EUR 75,000 and the separate tax would be due by the company with the highest taxable basis. **Wealth taxes** There is no general wealth tax in Belgium. A tax is due on securities accounts with an average value equal to or exceeding EUR 1,000,000 during a reference period. The tax is due by Belgian resident individuals (on Belgian or foreign securities and trading accounts) and by non-resident individuals (on Belgian securities and trading accounts). It concerns an annual tax of 0.15% on the average value of the assets held on the securities and trading accounts.			

2.2 Dividend regime (participation exemption)

Belgium

Dividends received are fully exempt from CIT if the participation meets the following cumulative conditions:

i. minimum participation of at least 10% or with acquisition value of EUR 2.5 million;
ii. held (or commitment to hold) in full property for at least 12 months;
iii. subject-to-tax requirement: dividends will not be exempt if distributed by:
a) a company that is not subject to Belgian CIT or to a similar foreign CIT or that is established in a country, the normal tax regime of which is substantially more advantageous than the normal Belgian tax regime;
b) a finance company, a treasury company or an investment company subject to a tax regime that deviates from the normal tax regime;
c) a regulated real estate company or a non-resident company (i) the main purpose of which is to acquire or construct real estate property and make it available on the market, or to hold participations in entities that have a similar purpose, (ii) that is required to distribute part of its income to its shareholders, and (iii) that benefits from a regime which deviates from the normal tax regime in its country of residence;
d) a company receiving foreign non-dividend income that is subject to a separate tax regime deviating from the normal tax regime in the company's country of residence;

The Netherlands

Dividends are fully exempt from CIT under the participation exemption if the following requirements are met:

i. the holding company itself or a related party holds a participation of at least 5% of, generally, the nominal paid-up share capital (or, in certain circumstances, 5% of the voting rights) of a company with a capital divided into shares (the 'Minimum Threshold Test').
ii. at least one of the following three tests is met:
    a) the holding company's objective with respect to its participation is to obtain a return that is higher than a return that may be expected from regular asset management (the 'Motive Test');
    b) the subsidiary is subject to an adequate levy according to Dutch tax standards (the 'Subject-To-Tax Test'); or
    c) the direct and indirect assets of the subsidiary generally consist of less than 50% of 'low-taxed free passive investments' (the 'Asset Test').
iii. the payment received from the subsidiary is not deductible for CIT purposes in the country of the subsidiary.

Ad i.

If a qualifying participation drops below the threshold of 5%, this requirement will be considered to be met for a period of three years, provided that the participation qualified for the participation exemption for an uninterrupted period of at least one year prior thereto.

Luxembourg

Dividends (including liquidation distributions) derived from a participation are fully exempt from CIT and MBT if the following cumulative conditions are met:

(i) a minimum participation of at least 10% or with an acquisition price of at least EUR 1.2 million is held;
(ii) the participation is held in (i) a capital company that is fully subject to Luxembourg CIT or a comparable foreign tax (i.e. a tax on profits mandatorily levied at a rate of at least half the Luxembourg CIT rate – currently 8.5% – applied to a comparable tax base, 'Comparable Tax Test') or (ii) an EU entity that qualifies for the benefits of the EU Parent-Subsidiary Directive; and
(iii) on the distribution date, the holding company must have held a qualifying participation continuously for at least 12 months (or must commit to hold such a participation for at least 12 months).

See, however, under Section 5 below regarding the potential application of the GAAR and the anti-hybrid rule to income derived from EU entities that fall within the scope of the EU Parent-Subsidiary Directive.

Impact EU GAAR

Effective 1 January 2016, the general anti-abuse rule (GAAR) and the anti-hybrid rule in the EU Parent-Subsidiary Directive were implemented into Luxembourg domestic law.

Switzerland

For dividends, relief from federal, cantonal and communal income tax is granted ('Participation Exemption') in case:

– dividends derived from a participation of which at least 10% of the nominal share capital is held;
– dividends derived from profit rights to at least 10% of the profits and reserves; or
– the shares have a fair market value of at least CHF 1 million.

Dividends derived from a participation in a low-taxed jurisdiction or from a participation with income from passive sources (such as dividends, interest, royalties, insurance or income from group services) qualify for the Participation Exemption (no subject-to-tax or activity test).

Relief is granted in the form of a reduction of tax for the part that is attributable to the 'net dividends' (and 'net capital gains'; see Section 2.3 below). The 'net dividends' (and 'net capital gains') are calculated as the sum of dividends (and capital gains) derived from qualifying participations less a proportional part of the finance expenses and less related general expenses. Related general expenses are deemed to be 5% of the participation income, unless a lower amount can be demonstrated.

No Participation Exemption applies on income that is a deductible expense at the level of the payor and on recontributed depreciations.

Belgium

e) a company realising profits through one or more foreign branches subject in global to a tax assessment regime that is substantially more advantageous than the Belgian regime;
f) an intermediary company (re)distributing dividend income of which 10% or more is 'contaminated' pursuant to the above rules;
g) a company, to the extent it has deducted or can deduct such income from its profits; or
h) a company, that distributes income that is related to a legal act or a series of legal acts, of which the tax administration has demonstrated, taking into account all relevant facts and circumstances and except proof to the contrary, that the legal act or series of legal acts are not genuine (i.e., that are not put into place for valid commercial reasons which reflect economic reality) and have been put in place with the main goal or one of the main goals to obtain the deduction or one of the benefits of the Parent-Subsidiary Directive in another Member State of the European Union.

The Belgian tax authorities have published a list of countries the standard tax regime of which is deemed to be substantially more advantageous than the Belgian regime. Generally, this will be the case if the standard nominal tax rate or the effective tax rate is lower than 15%. However, the tax regimes of EU countries are deemed not to be more advantageous, irrespective of the applicable rates.

The Netherlands

Ad ii.a)
The Motive Test is a facts-and-circumstances test that will be met when the holding company aims to obtain a return on its subsidiary that exceeds a portfolio investment return. This is generally considered to be the case, for instance, if the holding company interferes with the management of the subsidiary or if the holding company (or its parent company) fulfils an essential function for the benefit of the business enterprise of the group.

If more than 50% of the consolidated assets of the subsidiary consist of shareholdings of less than 5%, or if the subsidiary (together with its subsidiaries) predominantly functions as a group financing, leasing or licencing company, the Motive Test is deemed to be failed.

Ad ii.b)
Generally, a participation is considered to be subject to an adequate levy if it is subject to a tax on profits levied at a rate of at least 10%. However, certain tax base differences, such as the absence of any limitations on interest deduction, a too broad participation exemption, deferral of taxation until distribution of profits, or deductible dividends, may cause a profit tax to disqualify as an adequate levy, unless the effective tax rate according to Dutch tax standards is at least 10%.

Luxembourg

Pursuant to this GAAR, the participation exemption and the dividend withholding tax exemption in respect of dividends received from / paid to an EU entity that falls within the scope of the EU Parent-Subsidiary Directive is denied in case the main or one of the main purposes of an arrangement is to obtain a tax advantage that would defeat the object or purpose of the EU Parent-Subsidiary Directive and such arrangement lacks economic reality, i.e., is not 'genuine' but instead a purely artificial arrangement. Pursuant to the anti-hybrid rule, the participation exemption in respect of dividend income derived from an EU entity that falls within the scope of the EU Parent-Subsidiary Directive does not apply if and to the extent the payment is deductible in the jurisdiction of the EU payer.

Even if the GAAR and/or anti-hybrid rule is applicable, the participation exemption can still apply if the EU subsidiary meets the Comparable Tax test.

Note that many tax treaties concluded by Luxembourg grant a participation exemption for dividends under conditions different than those listed above.

Once the minimum threshold and holding period are met, newly acquired shares of a qualifying participation will immediately qualify for the participation exemption.

Switzerland

The Participation Exemption indirectly leads to a full exemption from CIT on dividends derived from qualifying participations if properly structured.

Possibility for tax neutral step-up in asset basis (advance tax ruling is recommended to obtain legal certainty).

As a result of the Swiss tax reform cantonal and communal tax regimes which previously provided for tax exemption, including the "Holding Status", were abolished as of 1 January 2020 (see under 2.1 above). Even without the abolished "Holding Status" tax regime, holding companies can still benefit from tax relief in the form of the Participation Exemption on the federal, cantonal and communal level under the above-mentioned conditions. For entities which exclusively operate as a holding company the Participation Exemption indirectly leads to a full exemption from CIT on dividends derived from qualifying participations if properly structured.

Impact EU GAAR
The EU GAAR is not applicable for Switzerland as Switzerland is not part of the EU.
However, Switzerland has an established practice of the Swiss federal supreme court regarding tax avoidance.

Belgium

Note that under circumstances exceptions to one or some of the subject-to-tax requirements are available for e.g. EU-based finance companies and investment companies that redistribute at least 90% of their net income.

Also for certain intermediary companies, exceptions to the exclusion from the participation exemption may apply. The same is true for companies with low taxed foreign branches.

Impact EU GAAR

Directives 2014/86/EU and 2015/121/EU were implemented in Belgium by introducing anti-hybrid and GAAR provisions in both the dividends received deduction (see above) and the provisions regarding the withholding tax exemption on dividends

The Netherlands

If the Minimum Threshold Test, as referred to in 2.2 (i) hereof, is met but the remaining conditions of the participation exemption are not, a credit will be granted for the underlying tax paid by the participation at a maximum rate of 5% (except for qualifying EU participations, for which the actual tax can be credited). Based on case law, the participation exemption also applies to option rights and warrants if, upon exercise, the holder would hold a qualifying participation.

Ad ii.c)

An asset is a ‘low-taxed free passive investment’ if (i) it is a passive investment that is not reasonably required within the enterprise carried out by its owner and (ii) the income from such asset is effectively taxed at a rate of less than 10%.

Real estate is always considered to be a good asset for purposes of the Asset Test (regardless of its function within the owner’s enterprise and regardless of taxation). For purposes of the 50% threshold of the Asset Test, the fair market value of the assets is decisive.

Assets that are used for group financing, leasing or licensing activities are generally deemed to be passive, unless (i) they form part of an active financing or leasing enterprise as described in Dutch law; or (ii) they are financed with loans from third parties for at least 90%.

Luxembourg

Dividends (excluding liquidation distributions) derived from a participation which meets the subject-to-tax requirement, but not (all of) the remaining conditions, are exempt for 50%. Such partial exemption only applies if the participation is held in a company that is resident in a treaty country and meets the Comparable Tax Test or is a qualifying entity under the EU Parent-Subsidiary Directive.

Switzerland

A transaction is disregarded for Swiss tax purposes based on this practice if:

(i) the legal form chosen by the participants is abnormal, peculiar or artificial, in all cases, completely inappropriate to the economic facts (objective element);

(ii) the decision regarding legal form appears to be chosen solely with the intention of receiving a tax benefit, i.e. no other than tax benefit reasons were relevant for such decision (subjective element); and

(iii) the method chosen by the participants had effectively led to a substantial tax benefit (factual element).

Whether the Swiss tax avoidance practice applies in connection with a transaction, it is subject to a specific analysis of the circumstances in each case.

Belgium	The Netherlands	Luxembourg	Switzerland
	Impact EU GAAR The Netherlands did not implement the EU GAAR into the participation exemption regime for inbound dividends. In addition, the Dutch government takes the position that bilateral tax treaties concluded by the Netherlands are in principle not affected by the implementation of the EU GAAR. However, the anti-hybrid rule in the EU Parent-Subsidiary Directive was implemented into the Dutch participation exemption regime and applies as of 1 January 2016. As a result, the participation exemption does not apply to remunerations of or payments by a body in which the participation is held insofar this remuneration or payment can by law or in fact be deducted directly or indirectly from the base of the profit tax levied.		

2.3 Gains on shares (participation exemption)

Belgium

Gains realised by the holding company on the alienation of shares are fully exempt from Belgian CIT, to the extent that potential income derived from those shares would be exempt under the dividend participation exemption (see 2.2 above) and provided that the shares have been held in full property for at least 12 months.

Only the net gain realised will be exempt, i.e. after the deduction of the alienation costs (e.g. notary fees, bank fees, commissions, publicity costs, consultancy costs, etc.).

The minimum participation requirement does not apply to insurance and reinsurance companies that hold participations to hedge their liabilities.

Any holding company that meets the minimum participation and the 'subject-to-tax' requirement but that does not meet the requirement to hold the shares in full property for at least 12 months, is subject to tax at a rate of 25% or 20% (for so-called small companies according to the Belgian corporate law, if applicable) on gains realised on the alienation of those shares.

Unrealised gains

Unrealised gains are exempt from CIT

(i) to the extent that they are booked in an unavailable reserve account and

(ii) to the extent that – should the gains not be booked – they do not correspond to previously deducted losses.

The Netherlands

Gains on the alienation of a participation (including foreign exchange results) are fully exempt from CIT under the same conditions as described under Section 2.2 above for dividends.

Changes in the value of the rights and obligations arising from an earn-out arrangement are generally exempt by virtue of the participation exemption.

Gains realised on option rights and warrants are generally exempt by virtue of the participation exemption if, upon exercise, the holder would hold a qualifying participation.

Luxembourg

Gains (including currency exchange gains) realised on the alienation of a participation are exempt from CIT under the following conditions:

- a minimum participation of 10% or with an acquisition price of at least EUR 6 million is held;
- the participation is held in (i) a capital company that is fully subject to Luxembourg CIT or a comparable foreign tax (i.e. a tax on profits mandatorily levied at a rate of at least half the Luxembourg CIT rate – currently 8.5% – applied to a comparable tax base) or (ii) an EU entity qualifying under the EU Parent-Subsidiary Directive; and
- on the date on which the capital gain is realised, the holding company has held a qualifying participation continuously for at least 12 months (or must commit to hold such a participation for at least 12 months).

Once the minimum threshold and holding period are met, newly acquired shares of a qualifying participation will immediately qualify for the participation exemption.

The capital gains exemption described in this paragraph does not apply to the extent of previously deducted expenses and write-offs relating to the respective participation (recapture). Such a recapture can in principle be offset against any tax losses carried forward (e.g. resulting from previously deducted expenses and write-offs).

Switzerland

For capital gains, relief from federal, cantonal and communal income tax is granted in the form of the Participation Exemption (see Section 2.2 above) under the following conditions:

- the shares disposed of represent at least 10% of the participation's nominal share capital or the capital gain derives from profit rights to at least 10% of the profits and reserves; and
- the shares or profit rights disposed of must have been held for at least 12 months.

If, after the sale of at least 10% of a qualifying participation, the remaining participation falls below the 10% threshold, relief from federal, cantonal and communal income tax will still apply if the fair market value of the remaining participation is at least CHF 1 million.

For entities which exclusively operate as a holding company the Participation Exemption indirectly leads to a full exemption from CIT on capital gains derived from qualifying participations if properly structured.

No Participation Exemption applies on income that is a deductible expense at the level of the payor and on recontributed depreciations.

Belgium	The Netherlands	Luxembourg	Switzerland
If shares are later disposed of, the reserve account can be released without triggering any CIT, provided the gain relates to a participation that meets the ‘subject-to-tax’ requirement described above.		The anti-hybrid rule and the GAAR do not apply to the capital gains exemption described above.	**Transfer stamp tax** The transfer of ownership of taxable securities can be subject to transfer stamp tax at a rate of up to 0.15% on securities issued by a Swiss issuer and up to 0.3% on securities issued by a non-Swiss issuer, calculated on the fair market value of the securities transferred if a Swiss securities dealer for transfer stamp tax purposes is a party or an intermediary to the transaction. Shares, bonds, notes, participation certificates and profit sharing certificates in Swiss or in foreign corporations, as well as participations in limited liability companies or cooperatives and collective investment schemes are considered taxable securities. Swiss companies owning taxable securities with a book value in excess of CHF 10 million qualify as securities dealers for transfer stamp tax purposes. A number of exemptions are available to facilitate intra-group reorganisations.

2.4 Losses on shares

Belgium	The Netherlands	Luxembourg	Switzerland
Losses incurred on a participation, both realised and unrealised, cannot be deducted, except for (realised) losses incurred upon liquidation of the subsidiary up to the amount of the paid-up share capital of that subsidiary.	Losses on shares qualifying for the participation exemption are not deductible, except in the event of a liquidation of the participation (subject to stringent conditions). As of 1 January 2021, more stringent conditions with respect to the deduction of liquidation losses on participations apply. These additional conditions entail that a liquidation loss is maximised up to EUR 5 million, unless: a. the taxpayer has had a ‘controlling interest’ in the subsidiary for at least the last five years; b. the subsidiary is a resident of an EU or EEA member state, or certain designated countries that have an association agreement with the EU (only Turkey currently qualifies); Moreover, the subsidiary’s dissolution must be completed within three calendar years following the year in which the activities of the subsidiary were discontinued or a decision to that end was taken. If this period is exceeded no liquidation loss is deductible, unless the taxpayer demonstrates that such delay is not tax driven. Similarly, discontinuation losses on foreign permanent establishments are limited to EUR 5 million for non-EU/EEA permanent establishments. Such losses are entirely disallowed from deduction if dissolution of a permanent establishment exceeds the abovementioned three-year period.	Losses on the disposal of shares qualifying for the participation exemption are tax deductible. Write-offs on a participation (including currency exchange losses) are deductible in a year, to the extent the write-offs exceed the tax exempt income realised from said participation in the same year. Tax deductible write-offs may be recaptured in a future year if a capital gain is realised on the alienation of the respective participation. See Section 2.3 above. Note that impairments on receivables granted to a participation are assimilated to a write-off of the participation and subject to the same rule of recapture.	Losses are deductible, unless anti-abuse rules apply. Losses can be carried forward for seven years. Loss carry back is not possible. Upon realisation of a capital gain, any earlier depreciation needs to be recovered before applying the Participation Exemption. Write-downs of qualifying participations can be scrutinised by the tax authorities and added back to the taxable profit in case they are no longer justified.

Belgium	The Netherlands	Luxembourg	Switzerland
	Losses incurred on option rights and warrants are not deductible in case the participation exemption applies in respect of such option rights and warrants. See Sections 2.2. and 2.3 above.		

2.5 Costs relating to the participation

Belgium	The Netherlands	Luxembourg	Switzerland
Costs relating to the acquisition and/or the management of the participation are deductible under the normal conditions. Such costs generally include interest expenses related to acquisition debt. However, in recent case law the tax deductibility of interest expenses in the context of a debt push down has been successfully challenged by the tax authorities. Moreover, the new interest deduction limitation rule (see under 5 below) and the debt-to-equity ratio of 5:1 should be observed. Certain exceptions exist.	Costs relating to the acquisition or the sale of a participation are not deductible. Other costs relating to the participation, such as interest expenses on acquisition debt, are in principle tax deductible. However, the deduction of expenses on acquisition debt may be restricted pursuant to one of the following rules: i. the earnings stripping rule implemented on the basis of the first Anti-Tax Avoidance Directive (ATAD I), which limits the deduction of the net amount of interest expenses minus interest income in a taxable year to the higher (i) of 30% of the EBITDA for tax purposes or (ii) EUR 1 million. The EBITDA is calculated on a Dutch tax basis, which means that for instance dividends that qualify for the participation exemption (see 2.2) are not included in the EBITDA. Any non-deductible interest on the basis of this rule can be carried forward indefinitely. If in a subsequent year there is any room left to deduct carried forward interest based on the abovementioned rule, this carried forward interest may be deducted. Similar to the loss compensation rules, restrictions apply if the ultimate interest in the taxpayer changed substantially compared to the start of the oldest loss year (see 2.5). The Tax Plan 2022 includes a proposal to tighten the earnings stripping rule by decreasing the deductible percentage of EBITDA from 30% to 20% as of 1 January 2022.	Costs in direct economic relation with a qualifying participation are generally not deductible. However, the deduction of such costs is permitted only to the extent that they exceed the exempt income derived from the respective participation in that year. Note that the deducted costs may be recaptured if a capital gain is realised on the alienation of the respective participation. See Section 2.3 above. Note also that the deduction of the exceeding borrowing costs may be capped under the interest deduction limitation rule applicable for tax years that started on or after 1 January 2019 (see Section 5 below). Interest that is not deductible pursuant to that rule should then also not be subject to the recapture rule.	All expenses are in principle deductible. However, due to the method used for calculating the Participation Exemption (see Section 2.2 above), expenses that are allocable to dividends and capital gains derived from qualifying participations are effectively not deductible. Swiss regulations provide for thin capitalisation rules applicable to related party debts which can lead to the result that the related party debts may be treated as taxable equity Furthermore, for interest payments to related parties fixed safe harbour interest rates should be applied. Otherwise, for interests exceeding the permitted safe harbour rates, deduction may be denied the payments might be treated as hidden distribution subject to Swiss WHT. Certain debt-to-equity ratios and safe harbour interest rules should thus be applied.

Belgium	The Netherlands	Luxembourg	Switzerland
	ii. the anti-base erosion rules which restrict, under certain circumstances, the deduction of expenses on related-party debt incurred in connection with tainted transactions, including the distribution of a dividend to a related party, or the acquisition of shares in a company which is a related party following the acquisition. iii. the abuse of law doctrine as developed under case law which is considered the Dutch interpretation of the General Anti-Abuse Rule included in ATAD I. Under this doctrine, the deduction of expenses may be restricted irrespective of whether any specific anti-abuse rules apply. iv. the hybrid debt classification rules and the non-businesslike loan rules, as developed under case law. As a general rule, currency exchange gains with respect to borrowings to finance a participation are taxable and currency losses incurred on such borrowings are deductible. Subject to advance confirmation from the Dutch tax authorities, the participation exemption will apply upon request to gains and losses on financial instruments entered into by the Dutch holding company to hedge its currency risk with respect to its participations.		

2.6 Currency exchange results

Belgium	The Netherlands	Luxembourg	Switzerland
Currency exchange gains and losses realised on cash and receivables are taxable / deductible in accordance with the ordinary CIT provisions. Currency exchange results realised in relation to other assets are taxed in accordance with the tax provisions applicable to such assets. For example, currency exchange gains / losses realised in relation to capital gains / losses realised on shares are exempt / non-deductible.	Currency exchange gains and losses are in principle taxable / deductible. Certain exceptions apply, e.g. if the currency exchange result relates to a subsidiary that qualifies for the participation exemption.	In general, currency exchange results are recognised for tax purposes as either taxable income or tax deductible expenses. Exchange gains realised on qualifying participations are tax exempt whereas exchange losses on a qualifying participation are tax deductible to the extent such exchange losses exceed tax exempt income from the relevant participation in the same year but subject to the recapture rule. See Section 2.3 above. Under certain conditions, a Luxembourg resident company may request to determine its taxable income in a currency other than the EUR. A written request must then be addressed to the Luxembourg tax authorities. The application of the functional currency allows to neutralise the translation differences that may arise when foreign currency amounts on the commercial balance sheet are converted into EUR.	Swiss resident companies can use a different currency than Swiss Francs (CHF) as functional currency. Translation differences that arise from the translation of financial statements kept in another functional currency (e.g. USD or EUR) into Swiss Francs presentation currency are, in principle, tax neutral for corporate income tax purposes. Such translation differences should be recognised in the company's equity. Currency exchange results that arise from transactions (transaction in another currency than functional currency) have an influence on the company's net income.

2.7 Tax rulings

Belgium	The Netherlands	Luxembourg	Switzerland
The application of the participation exemption regime does not require obtaining a ruling, although in principle this would be possible. Belgium automatically exchange information on advance cross-border tax rulings and advance pricing agreements (APAs) in conformity with EU law. The categories of tax rulings on which information has to be exchanged are identified in the OECD BEPS Action 5 Final Report.	The application of the participation exemption regime or the domestic exemption of dividend withholding tax (see 3.1 below) does not require obtaining an advance tax ruling (ATR), although this is possible. ATRs are regularly granted in relation to the participation exemption, non-resident taxation and the dividend withholding taxation rules (see Sections 3.1 and 4 below). It is not possible to conclude international rulings if: i. the group as a whole and the Dutch entity that requests the ruling do not have sufficient economic nexus with the Netherlands; ii. the main motive for the entering into the transaction is to save Dutch or foreign taxes; iii. the ruling relates to the tax consequences of direct transactions with certain low taxed jurisdictions. Furthermore, if a tax ruling is issued, an anonymised summary of the ruling will be published. Also, the procedure for concluding a ruling is further centralised. As from 1 January 2017, the Netherlands (and all other EU Member States) is required to automatically exchange certain information on tax rulings and advanced pricing agreements (APAs).	Luxembourg law provides for the possibility to request confirmation from the tax authorities in relation to the application of Luxembourg tax law to an anticipated transaction. Such request may relate to, among others, the application of the participation exemption (e.g. the comparable tax test), transfer pricing matters and any other tax matters that may be relevant for a holding company (e.g. financing). A request for confirmation is subject to payment of a fee to the authorities ranging from EUR 3,000 to EUR 10,000 (depending on the complexity of the request). Any confirmation obtained is binding on the tax authorities and is valid for a period of maximum five fiscal years (subject to accuracy of the facts presented, subsequent changes to the facts and changes in national, EU or international law). In respect of debt-funded intragroup finance activities, certain conditions must be met in order to obtain advance confirmation. Luxembourg is required to automatically exchange certain information on tax rulings and advanced pricing agreements within the EU.	The application of the Participation Exemption has to be claimed in the tax return and does not require a tax ruling. Switzerland started spontaneously exchanging information on advance tax rulings as of 1 January 2018 for tax years 2018 onwards. Not only new rulings but also existing rulings applicable as from 1 January 2010 that are still applicable on 1 January 2018 are subject to the spontaneous exchange. The spontaneous exchange of information on advance tax rulings by Switzerland is based on the OECD Convention on Mutual Administrative Assistance in Tax Matters (MAC) and exchange may take place to the countries where the MAC has entered into force. The MAC as well as the required Swiss domestic legislation (the Swiss Tax Administrative Assistance Ordinance) for the spontaneous exchange of information on advance tax rulings entered into force in Switzerland on 1 January 2017. A spontaneous exchange of information is deemed to be any unrequested exchange of information available to the competent Swiss tax authorities that may be of relevancy for the responsible foreign tax administration.

Belgium	The Netherlands	Luxembourg	Switzerland
	In addition, the Netherlands has committed itself to the OECD framework regarding the compulsory exchange of information on tax rulings. The categories of tax rulings on which information has to be exchanged are identified in the OECD BEPS Action 5 Final Report.		Rulings which are subject to the spontaneous exchange of information include, inter alia, rulings that carry a significant risk of base erosion and profit shifting such as, inter alia, ruling confirming the application of Swiss tax regimes (holding, domiciliary, mixed, principal company tax status, Swiss finance branch regime; the preferential Swiss tax regimes have been abolished as per 1 January 2020 as part of the Federal Act on the Tax Reform and AHV Financing), unilateral transfer pricing rulings or rulings regarding the attribution of income to a permanent establishment.

2.8 Loss carry over rules

Belgium	The Netherlands	Luxembourg	Switzerland
Carry back Loss carry back is in principle not permitted in Belgium. As a one-off exception, a Belgian company can offset the profits of the financial year closed between 13 March 2019 and 31 December 2020 (i.e. tax year 2019, 2020 or 2021) with the losses incurred - or expected to be incurred - in the subsequent financial year. With this measure the Belgian government wants to help companies facing financial difficulties due to the COVID-19 crisis. **Carry forward** The ordinary losses may be carried forward indefinitely. In case of mergers / demergers the carry forward losses are reduced in accordance with the fiscal net value of the newly formed / surviving company. In case of acquisition or change of control of a company, the losses carried forward are not deductible from the profits made during that taxable period, nor from profits made during subsequent taxable periods, unless it is proven that the change of control is justified by legitimate financial or economic needs of the company. The concept of 'legitimate needs' is not defined in the Belgian Income Tax Code.	Currently, tax losses can generally be carried back one year and carried forward six years. As of 1 January 2022, losses can still be carried back one year but carried forward indefinitely. However, a quantitative restriction will be introduced, as a consequence of which the annual loss compensation will be limited to EUR 1 million, increased with 50% of the taxpayer's annual taxable profit exceeding EUR 1 million. The new loss relief rules will apply to both losses incurred after 1 January 2022 as well as existing losses that are available to be offset against profits of book years starting on or after 1 January 2022. Restrictions apply if the ultimate interest in the taxpayer changed substantially (i.e. 30% or more) compared to the start of the oldest loss year. After such change, the losses will in principle be forfeited, unless certain conditions are met (amongst others, the total size of the taxpayer's activities should not be reduced to less than 30% and there is no intention to decrease the activities to less than 30%, compared to the activities at the beginning of the oldest loss financial year).	Loss carry back is not permitted in Luxembourg. Loss carry forward is limited in time to 17 years. Losses incurred prior to 2017 can be carried forward indefinitely.	Losses for tax purposes can be carried forward for a period of up to seven business years. No offset of losses carried forward in case of tax avoidance.

Belgium	The Netherlands	Luxembourg	Switzerland
A circular from the Belgian tax authorities clarifies that 'legitimate needs' are deemed to be fulfilled when, in case of change of control of a company in financial or economic distress, there is conservation of the employment and the activities exercised by the enterprise before the change of control.	To avoid the forfeiture of carry forward losses, the taxpayer's assets may be revalued to at maximum the fair market value immediately prior to the change.		

2.9 Group taxation for CIT purposes

Belgium	The Netherlands	Luxembourg	Switzerland
As of 1 January 2019, Belgium has introduced a system of horizontal and vertical tax consolidation based on a group contribution regime. A consolidation of tax losses within a group of companies can be achieved by transferring taxable profits to another related taxpayer with current-year losses via a group contribution agreement. The Belgian profit-making taxpayer can deduct the group contribution from its taxable profit and it also pays a compensation to the loss making qualifying taxpayer in the amount of the tax saving resulting from the group contribution. This compensation is not tax deductible in the hands of the payer and not taxable in the hands of the receiver. The following conditions apply: a) 90% minimum participation requirement meaning that the profit-making taxpayer holds at least 90% of the loss making taxpayer, the loss making taxpayer holds at least 90% of the profit making taxpayer or both taxpayers are held for at least 90% by another company located in Belgium or the EEA; and b) the companies must have been affiliated during an uninterrupted period of 5 taxable periods including the current taxable period. Entities benefiting from a special tax regime are excluded from the regime.	The Netherlands has a group taxation regime for CIT purposes; the fiscal unity regime. A fiscal unity can be formed if (amongst other criteria) the Dutch parent entity holds at least 95% of the legal and economic ownership of each of the subsidiaries to be included. A fiscal unity can also be formed between two Dutch sister entities with an EU parent entity and between a Dutch parent entity and its indirect Dutch subsidiary, which is held through an EU entity. Under the fiscal unity regime, CIT is levied from the parent entity, as if the fiscal unity entities are one entity. This means that losses of one entity can, within the fiscal unity, be offset against profits of another entity within the fiscal unity. Intragroup transactions are in principle disregarded within the fiscal unity. All entities included are fully and severally liable for the CIT due by the parent company. In case an entity is excluded from a fiscal unity, it remains fully and severally liable for the CIT due by the parent company over the period the entity was included in the fiscal unity. Several anti-abuse rules apply, for example regarding offsetting (pre-)fiscal unity losses and shifting assets with hidden reserves within the fiscal unity.	Fiscal unity (on a ‘vertical’ or ‘horizontal’ basis) is possible for corporate income tax and municipal business tax but not for net wealth tax purposes. A fiscal unity must be requested for a period of at least five years. **Vertical fiscal unity** Taxable Luxembourg companies or Luxembourg permanent establishments of foreign companies that are subject to a tax corresponding to Luxembourg corporate income tax (‘Qualifying PE’), the shares of which are owned (directly or indirectly) for at least 95% by another taxable Luxembourg company or Qualifying PE, may form a vertical fiscal unity with the parent company. In case of indirect ownership, the intermediary companies must be subject to a Comparable Tax (see above section 2.3). **Horizontal fiscal unity** Taxable Luxembourg resident sister companies or Qualifying PEs, the common parent (directly or indirectly) of which is neither a Luxembourg resident nor has a Luxembourg permanent establishment, may form a horizontal fiscal unity without their parent company, subject to conditions. The aforementioned parent company (or its permanent establishment) must, however, be tax resident in the European Economic Area and be subject to a tax corresponding to Luxembourg CIT. In case of indirect ownership, the intermediary companies must be subject to a Comparable Tax (see above section 2.3).	There is no group taxation system in Switzerland for corporate income tax purposes.

Belgium	The Netherlands	Luxembourg	Switzerland
No deduction other than the current-year loss can be made against the amount of the group contribution received. The group contribution will be added to the first unrestricted basket of tax attributes for purposes of calculating the minimum taxable base. The taxpayers are required to conclude a group contribution agreement that will have to be filed with the annual corporate income tax return. A model agreement is expected to be published in a Royal Decree. The new group contribution regime can also be used for the utilisation of tax losses from a qualifying foreign company, located in the EEA, in case this company definitively ceases its activities.	Following EU case law, as of 1 January 2018, certain rules apply as if the companies that are part of the fiscal unity were standalone taxpayers. These rules include the anti-base erosion rule, certain provisions of the participation exemption, the CFC rules, and the rules relating to the forfeiture of carried-forward interest and losses in the event of a change of interest. The State Secretary for Finance further announced that the current fiscal unity regime will be replaced by a robust and future-proof fiscal group regime. The industry, interest groups and the academic community will be involved in the design of the new tax group regime. However, as the State Secretary informed the House of Representatives that setting-up a new regime is very complex and has extensive and significant consequences, it is expected that implementing a new regime will take several years (most likely at least 5 years).	The law of 19 December 2020 allows the formation of a horizontal fiscal unity with companies that are already vertically integrated without triggering the potentially adverse effects of a dissolution of such vertical fiscal unity within the 5-year minimum period. This is possible only if the integrating company remains the same and the switch merely leads to an extension of the fiscal unity. Groups wishing to benefit from this special rule have until the end of the 2022 tax year. After this deadline, the general principles governing the dissolution of an integrated group will apply to the entities concerned.	

3. Withholding taxes payable by the holding company

3.1 Withholding tax on dividends paid by the holding company

Belgium

The domestic withholding tax rate on dividends and liquidation distributions is generally 30%, which may be reduced by virtue of tax treaties.

An exemption from withholding tax applies if the (liquidation) distribution is made to a parent company that:

- holds (or commits to hold) a participation of at least 10% of the share capital of the
- distributing company for a period of at least one year;
- is tax resident in an EU country or a tax treaty country under that country's domestic tax law and under the tax treaties concluded by that country with third countries (provided that the tax treaty (or another agreement) contains an exchange of information clause);
- is incorporated in a legal form listed in the annex to the EU Parent-Subsidiary Directive or a similar legal form (for a tax treaty country); and
- is, in its country of tax residence, subject to CIT or a similar tax without benefiting from a regime that deviates from the normal tax regime.

The Netherlands

The domestic dividend withholding tax rate is 15%, which may be reduced (i) by virtue of the domestic exemption to 0% or (ii) by virtue of tax treaties to 0-10% (see below). Treaty benefits are (by virtue of the MLI, further explained in paragraph 7.1) often subject to a main benefit test, which is for dividends explained in line with the below mentioned domestic exemption.

Exemption for substantial NL, EU/EEA or treaty shareholder

Under the domestic rules, an exemption applies if a distribution is made by a Dutch company or cooperative to a substantial shareholder established in:

(i) the Netherlands, provided the shareholder can apply the participation exemption with regard to the dividend distribution or is included in a CIT consolidation with the distributing company;

(ii) either the EU/EEA or a country with which the Netherlands has concluded a tax treaty that includes a dividend article; provided the shareholder could have applied the participation exemption had it been a tax resident in the Netherlands.

However, the exemption does not apply if (i) the interest in the Dutch entity is held with the main purpose or one of the main purposes to avoid Dutch dividend withholding tax and (ii) there is an artificial arrangement in place. An arrangement is considered artificial if it is not put in place for valid business reasons that reflect economic reality. Additional conditions apply, dependent on the specific facts and circumstances.

Luxembourg

The domestic dividend withholding tax rate is generally 15%, which may be reduced by virtue of tax treaties. A domestic exemption applies if:

(i) the dividend distribution is made to (i) a fully taxable Luxembourg resident company, (ii) an EU entity qualifying under the EU Parent-Subsidiary Directive, (iii) a permanent establishment of one of the above qualifying entities, (iv) a Swiss resident company subject to Swiss CIT without being exempt, (v) a company which is a regularly taxed resident in an EEA country or a country with which Luxembourg has concluded a tax treaty and which is subject to a tax comparable to the Luxembourg corporate tax (i.e. a tax rate of 8.5% and a comparable tax base), (vi) a permanent establishment of a corporation or of a co-operative company resident in an EEA Member State other than an EU Member State; and

(ii) the recipient of the dividend has held or commits itself to continue to hold a direct participation in the Luxembourg company of at least 10% or with an acquisition price of at least EUR 1.2 million for an uninterrupted period of at least 12 months.

See Section 5 below regarding the potential application of the EU GAAR to dividend distributions to EU corporate shareholders.

Switzerland

The domestic dividend withholding tax rate is 35%, which may be (partially or fully) refunded by virtue of tax treaties or the Agreement between Switzerland and the EU on the automatic exchange of financial account information (CH/EU Agreement). For qualifying parent companies, a reduction or exemption at source is possible under certain conditions.

If a distribution is made to a Swiss resident company, a full refund can be obtained or, in case a participation of at least 20% is held and a notification procedure is followed, an exemption at source can be obtained.

Furthermore, under the tax treaties with various countries, an exemption at source is available for qualifying parent companies. Certain strict requirements have to be met (beneficial ownership test).

On the basis of the CH/EU Agreement (art. 9), a full refund or exemption at source may be obtained for dividends paid by a Swiss subsidiary to an EU parent company provided that:

(i) the EU parent company holds at least 25% of the nominal share capital of the Swiss subsidiary for at least two years;

(ii) the parent company is resident for tax purposes in an EU state and the distributing company is resident for tax purposes in Switzerland;

Belgium

Dividends will not be exempt from withholding tax if the dividends are related to a legal act or a series of legal acts, of which the tax administration has demonstrated, taking into account all relevant facts and circumstances and except proof to the contrary, that the legal act or series of legal acts are not genuine (i.e., that are not put into place for valid commercial reasons which reflect economic reality) and have been put in place with the main goal or one of the main goals to obtain the exemption or one of the benefits of the Parent-Subsidiary Directive in another member state of the European Union.

A separate exemption from withholding tax applies to dividends distributed by a resident company to resident and non-resident companies located in the EEA or a tax treaty country providing for exchange of information that hold a participation in the distributing company's capital of at least 10% and with an acquisition value of at least EUR 2.5 million for an uninterrupted period of at least 12 months (or commitment to hold), to the extent that the receiving entity cannot credit Belgian withholding tax and that it meets subject-to-tax requirements. The receiving entity must certify the fulfilment of the conditions.

Reduced withholding tax rates are available for distributions by so-called small companies according to Belgian corporate law.

The Netherlands

Regarding intermediate holding companies with a linking function, it is recommended to verify whether the company needs to satisfy the Dutch minimum substance requirements.

As a result of the Court of Justice of the European Union's 'Danish Beneficial Ownership Cases', the rules for foreign intermediate holding companies with 'relevant substance' that qualify for the dividend withholding tax exemption are amended. The relevant substance criteria include EUR 100k of salary expenses in the Netherlands and the presence of an office in which activities are carried out.

As of 1 January 2020, the Dutch tax authorities have the possibility to counterproof that, even if the relevant substance criteria are met, a structure is abusive, and the dividend withholding tax exemption does not apply. The amended substance requirements similarly apply to the Dutch non-resident corporate tax rules (chapter 4).

Liquidation / share redemption

Liquidation distributions and payments upon repurchase of shares are treated as ordinary dividends to the extent they exceed the average recognised capital contributed on the shares of the Dutch company. An exemption may apply for the repurchase of listed shares.

Luxembourg

The full or partial liquidation of a Luxembourg company is treated as a capital gain transaction and is, therefore, not subject to dividend withholding tax.

A repurchase and cancellation by a Luxembourg company of part of its own shares is not subject to dividend withholding tax if it qualifies as a 'partial liquidation'. The repurchase and immediate cancellation of all shares held by one of the shareholders, who thereby ceases to be a shareholder of the Luxembourg company, constitutes a partial liquidation.

Impact EU GAAR

Please note that anti-abuse regulations implementing EU GAAR also apply on exemption from withholding tax on outbound dividends. See comments in Section 2.2.

Impact ATAD – GAAR

The Luxembourg law of 21 December 2018 implementing the provisions of the EU Directive 2016/1164 on anti-tax avoidance (ATAD I) in Luxembourg law entered into force on 1 January 2019. The law introduced controlled foreign corporation (CFC), interest deduction limitation and anti-hybrid rules (see Section 5).

Switzerland

(iii) under any double tax treaty with a third State neither company is resident for tax purposes in that third State; and
(iv) both companies are subject to corporate income tax without being exempt and both have the form of a limited company.

For an exemption at source pursuant to a tax treaty or the CH/EU Agreement, approval must be requested in advance which is valid for 3 years. In addition, in respect of each dividend distribution, a notification procedure applies which is subject to very strict deadlines for submitting the required forms.

Switzerland will continue to apply its strict anti-abuse provisions (beneficial owner test) also under the CH/EU Agreement.

Contributed capital and share premium can be repaid free of dividend withholding tax, provided that certain strict formalities are complied with (inter alia, booked in a separate account in the books of the company, periodically reported to the Swiss Federal Tax Administration). As of January 2020, Switzerland has implemented restrictions to the amount that a company listed at the Swiss stock exchange may distribute as capital contribution reserves (i.e. free of any Swiss withholding tax). No similar restrictions apply to any other companies.

Belgium	The Netherlands	Luxembourg	Switzerland
The reimbursement of paid-up capital is in principle exempt from withholding tax. For dividend withholding tax purposes, paid-up capital reimbursements are deemed to derive proportionally from paid-up capital and from taxed reserves (incorporated and non- incorporated into capital) and exempt reserves incorporated into the capital. The reduction of capital is only allocated to paid-up capital in the proportion of the paid-up capital in the total capital increased by certain reserves. The portion allocated to the reserves is deemed to be a dividend and subject to withholding tax (if applicable). **Impact EU GAAR** See Section 2.2. **Impact ATAD – principal purpose test** The impact of the ATAD principal purpose test should in principle be limited as the current Belgian GAAR already provides for a principal purpose test.	Under Dutch tax treaties liquidation distributions and payments upon a repurchase of shares are sometimes classified as a dividend and not as a capital gain. As a result, if such treaty is applicable, the Netherlands may be allowed to levy tax on the proceeds upon liquidation or repurchase of shares. **Distributions by Dutch Cooperatives** Profit distributions by a Dutch cooperative are not subject to Dutch dividend withholding tax, unless it concerns profit distributions by a holding cooperative. A cooperative qualifies as a holding cooperative if its actual activities usually consist for 70% or more of holding participations or of group financing activities. This is determined based on balance sheet totals, but also taking into account types of assets and liabilities, turnover, profit generating activities and time spent by employees. No Dutch dividend withholding tax is due on distributions to members of the cooperative that have an entitlement of less than 5% of the annual profits or the liquidation proceeds of the cooperative, alone or together with related persons or in a collaborating group. **Impact EU GAAR** The EU GAAR is implemented in the dividend withholding tax act.	The wording of the existing domestic GAAR provision is brought in line with the ATAD’s wording, introducing the concept of non-genuine arrangement. It suffices for a tax advantage to be one of the main purposes of the arrangement to be caught under the GAAR. The revised GAAR applies to all direct taxes, for corporate as well as individual taxpayers. It will require case law to further refine its interpretation.	**Impact EU GAAR** See Section 2.2, Sub-section ‘Impact EU GAAR’. **Impact ATAD – GAAR** The EU ATAD is not applicable for Switzerland as Switzerland is not part of the EU.

Belgium	The Netherlands	Luxembourg	Switzerland
	Impact ATAD – GAAR The Netherlands indicated that it will not implement the general (ATAD) principal purpose test separately, based on the view that the abuse of law-doctrine as developed in Dutch case law achieves the same goal as set by ATAD. **Conditional withholding tax as of 2024** As of 1 January 2024, a conditional withholding tax on interest at a rate of 25% (expected to increase to 25.8% as of 2022) is proposed to apply in case of dividend payments to affiliated entities in low tax jurisdictions with a statutory CIT rate below 9% or jurisdictions included on the EU blacklist of non-cooperative jurisdictions. The withholding tax may also apply in cases of "abusive" situations in which a non-low-taxed entity is artificially interposed to avoid the withholding tax for another entity. Interest payments to (reverse) hybrid entities may also be subject to the withholding tax.		

3.2 Withholding tax on interest paid by the holding company

Belgium	The Netherlands	Luxembourg	Switzerland
The domestic interest withholding tax rate is generally 30%, which may be reduced to 0-10% by virtue of tax treaties and domestic exemptions (e.g. registered bonds and interest payments to banks). 0% withholding tax on interest payments to a qualifying EU company ('Beneficiary'), provided that: (i) the Beneficiary holds or commits to hold directly or indirectly at least 25% of the share capital of the debtor (or vice versa) for a period of at least one year; or (ii) a third EU company holds or commits to hold directly or indirectly at least 25% of respectively the share capital of the Belgian debtor and that of the Beneficiary for a period of at least one year. Interest payments to a non-EU branch of an EU company do not qualify for the 0% rate. **Impact ATAD – GAAR** See Section 3.1.	The Netherlands does not levy withholding tax on interest payments, unless interest is paid on a debt instrument that is treated as equity for Dutch tax purposes. In that case, dividend withholding tax is due at a rate of 15% (subject to reduction under tax treaties). An exemption is available under the same conditions as mentioned under 3.1 above for regular dividend distributions. Under certain circumstances, a non-resident recipient of Dutch source interest income may be subject to non-resident CIT in the Netherlands; see under 4 below. As of 1 January 2021, a conditional withholding tax on interest at a rate of 25% (expected to increase to 25.8% as of 2022) applies in case of interest payments to affiliated entities in low tax jurisdictions with a statutory CIT rate below 9% or jurisdictions included on the EU blacklist of non-cooperative jurisdictions. The withholding tax may also apply in cases of "abusive" situations in which a non-low-taxed entity is artificially interposed to avoid the withholding tax for another entity. Interest payments to (reverse) hybrid entities may also be subject to the withholding tax. **Impact ATAD – GAAR** See Section 3.1.	Non-existent for payments to non-residents, except for profit-sharing interest which, under certain circumstances, is subject to 15% withholding tax (subject to reduction under tax treaties). Interest payments made by a Luxembourg paying agent to Luxembourg resident individuals are subject to a 20% final Luxembourg withholding tax. **Impact ATAD – GAAR** See Section 3.1.	Withholding tax at a rate of 35% is levied on interest payments by for instance banks and similar financial institutions, or interest paid on bonds, notes and similar securities. If properly structured and documented interest paid by an ordinary holding company on an intercompany loan is not subject to withholding tax, unless the loan is profit sharing or qualified as hidden equity. Certain safe harbour interest rules may apply on intercompany loans. If Swiss corporations and branches subject to tax in Switzerland suffer from foreign non-recoverable withholding tax on dividend, interest, and royalty income derived which are taxed with corporate income tax in Switzerland, they may benefit from a reduction of such double taxation by virtue of foreign tax credits (subject to particular conditions). **Impact ATAD – GAAR** The EU ATAD is not applicable for Switzerland as Switzerland is not part of the EU.

3.3 Withholding tax on royalties paid by the holding company

Belgium	The Netherlands	Luxembourg	Switzerland
30%, which may be reduced by virtue of tax treaties. 0% withholding tax to qualifying EU companies under similar conditions as set forth in Section 3.2 above. **Impact ATAD – GAAR** See Section 3.1.	The Netherlands in principle does not levy withholding tax on royalty payments. However, as of 1 January 2021, a withholding tax on royalties at a rate of 25% (expected to increase to 25.8% as of 2022) applies in case of interest payments to affiliated entities in low tax jurisdictions with a statutory CIT rate below 9% or jurisdictions included on the EU blacklist of non-cooperative jurisdictions. The withholding tax may also apply in cases of "abusive" situations in which a non-low-taxed entity is artificially interposed to avoid the withholding tax for another entity. Interest payments to (reverse) hybrid entities may also be subject to the withholding tax. **Impact ATAD – GAAR** See Section 3.1.	None. Note that income paid to a non-resident that is derived from an independent artistic or literary activity that is or has been conducted or put to use in Luxembourg is subject to 10% withholding tax. **Impact ATAD – GAAR** See Section 3.1.	None. **Impact ATAD – GAAR** The EU ATAD is not applicable for Switzerland as Switzerland is not part of the EU.

4. Non-resident capital gains taxation – domestic legislation and tax treaties

Belgium	The Netherlands	Luxembourg	Switzerland
Gains realised by non-resident entities without a Belgian permanent establishment ('PE') to which the shares are attributed, in respect of shares in a Belgian company are not taxable. Gains realised by non-resident individuals in respect of shares in a Belgian company are taxable under certain circumstances (if there is no adequate treaty protection).	Capital gains realised by non-resident entities on the alienation of shares in a Dutch tax resident company are subject to Dutch taxation if the following conditions are cumulatively met: – the non-resident holds at the time of the alienation directly or indirectly an interest of 5% or more in the Dutch company (a 'substantial interest'); – the substantial interest is held with (one of) the main purpose(s) to avoid Dutch personal income tax; and – there is an artificial arrangement in place. An arrangement is considered as artificial if it does not reflect economic reality. Capital gains realised by non-resident individuals on the alienation of shares in a Dutch company are subject to Dutch taxation generally if that individual – together with his or her partner – directly or indirectly holds an equity interest in the Dutch company of 5% or more. If the above-mentioned conditions are met, the non-resident taxation also applies to distributions made by the Dutch company, as well as income derived from loans granted by the non-resident to the Dutch company. If the non-resident taxation applies to a non-resident individual, 26.9% personal income tax is levied on all income derived from the substantial interest (including capital gains and dividends) on a net basis.	Gains realised by non-residents on the alienation of a substantial interest in a Luxembourg company (more than 10%), including distributions received upon liquidation and proceeds from a redemption of shares, are taxable if the gain is realised within a period of six months following the acquisition of the shares. Other rules apply in case the non-resident transferor was resident in Luxembourg for at least 15 years in the past. In general, where a tax treaty is applicable, Luxembourg will in principle be restricted from levying its non-resident capital gains tax.	Gains realised by non-resident individuals or companies on the disposal of shares in a Swiss company are normally not subject to Swiss taxation.

Belgium	The Netherlands	Luxembourg	Switzerland
	If the non-resident taxation applies to a non-resident entity which holds the substantial interest to avoid Dutch personal income tax, CIT is levied at 25% (expect to increase to 25.8% as of 2022) on all income (i.e. dividends, capital gains and interest income) from the substantial interest (on a net basis).		

5. Anti-abuse provisions / CFC rules

Belgium

See under 2.2 above for the subject-to-tax rules under the participation exemption, which, read together, have the same effect as anti-abuse provisions and contain an actual anti-abuse provision.

Belgian tax law is familiar with the sham doctrine and it also contains a general anti-abuse provision which is aimed at combating purely tax driven structures.

Impact ATAD – CFC legislation

Belgium has introduced a CFC rule and it has chosen to apply 'Option B' as provided under ATAD I.

The Belgian CFC legislation applies under the following cumulative conditions (a foreign company qualifies as a CFC if):

a) the Belgian taxpayer owns directly or indirectly the majority of voting rights, or holds directly or indirectly at least 50% of the share capital or is entitled to receive at least 50% of the profits of the foreign company (control test), and
b) the foreign company is in its country of residence either not subject to an income tax, or is subject to an income tax that is less than half of the income tax due if the company would have been established in Belgium.

The Netherlands

An annual mark-to-market revaluation applies to a substantial (25% or more) investment in a low-taxed subsidiary of which the assets consist, directly or indirectly, for 90% or more of 'low-taxed free passive investments'.

Anti-abuse rules with respect to the deductibility of interest apply (see Section 2.5 above) and the participation exemption in relation to hybrid instruments (see Section 2.2 iii above).

An exemption or reduction of Dutch dividend withholding tax may be denied based on the so called 'anti-dividend-stripping' rules in the Dividend Tax Act.

The rules described in Section 3.1 above, which subject certain distributions by a Dutch cooperative to Dutch dividend withholding tax, effectively constitute an anti-abuse measure. The same applies to the non-resident capital gains taxation rules described under Section 4 above.

A general concept of abuse of law (fraus legis) applies based on case law.

Impact ATAD – CFC legislation

As of 1 January 2019, the Netherlands has introduced CFC-rules on the basis of ATAD I.

Luxembourg

Luxembourg law provides for a GAAR that allows the Luxembourg Tax Authorities to re-characterise transactions as tax avoidance schemes. The GAAR was slightly modified as from 2019 to better align with the ATAD's GAAR.

In addition, since 2016, the participation exemption from the EU Parent-Subsidiary Directive can be denied where the structure does not exist for bona fide commercial reasons and forms part of an arrangement or scheme, the main purpose of which is to obtain a tax benefit. However, the domestic participation exemption and dividend withholding tax exemption has no such special anti-abuse provisions (but the GAAR may still apply).

As from 2019, Luxembourg also modified its domestic interpretation of the "permanent establishment" concept to mitigate the possibility of double non-taxation with tax treaty jurisdictions.

Impact ATAD – CFC legislation

Under the CFC rules, a Luxembourg corporate taxpayer may be subject to corporate income tax on its share of the CFC's undistributed income.

Switzerland

The 1962 Anti-Abuse Decree and certain Circulars stipulate unilateral anti-abuse measures. They contain specific anti-abuse rules for foreign controlled Swiss companies that claim the benefits of Swiss tax treaties for income which they receive from abroad. The 1962 Anti-Abuse Decree was recently partially abolished. Under new rules Switzerland will no longer verify whether specific requirements to treaty entitlement are met (e.g. beneficial ownership) for inbound transactions as such verification will solely be handled by the source state. The 1962 Anti-Abuse Decree still applies, however, to abusive transactions.

Also under certain tax treaties, anti-abuse rules apply.

Switzerland has taken account of some BEPS measures, for example:

– The ratification of the OECD Convention on Mutual Administrative Assistance in Tax Matters provided the legal basis for the spontaneous exchange of information (see under 6 above)
– The ratification of the Multilateral Competent Authority Agreement on the exchange of Country-by-Country Reports (CbCR) provides for transparency for the taxation of multinational enterprises.

Belgium

A Belgian parent company should include in its tax base non-distributed income of the CFC arising from non-genuine arrangements which have been put in place for the essential purpose of obtaining a tax advantage. Belgium has opted for the latter approach. An arrangement shall be regarded as non-genuine to the extent that the CFC would not own assets or would not have undertaken risks if it were not controlled by the Belgian taxpayer where the significant people functions, which are relevant to those assets and risks, are carried out and are instrumental in generating the CFC's income. The attribution of income is then limited to the income attributable to the significant people functions carried out by the Belgian controlling taxpayer.

Impact ATAD – thin capitalization rules / EBITDA

ATAD I and ATAD II are transposed into Belgian tax law by implementing measures relating to interest deduction limitation (entry into force in 2019).The Belgian interest limitation rule foresees that exceeding borrowing costs will be deductible in the tax period in which they are incurred only up to the higher of 30% of the taxpayer's EBITDA or EUR 3.000.000 ("the threshold amount").

The Netherlands

Under the CFC-rules, certain undistributed items of passive income of a direct or indirect subsidiary or a permanent establishment are included in the tax base of the Dutch taxpayer if the subsidiary or permanent establishment is established in a jurisdiction that is included on (i) a yearly published Dutch blacklist or (ii) the European list of non-cooperative jurisdictions. The CFC-rules only apply to direct or indirect subsidiaries if the Dutch shareholder, alone or together with an associated enterprise or person, holds an equity interest of more than 50% in the subsidiary. Certain exceptions apply, including if the subsidiary or permanent establishment has 'real economic activities'.

Impact ATAD – thin capitalisation rules / EBITDA

The rules prescribed by ATAD with respect to the earnings stripping interest deduction limitation have been implemented (see Section 2.5 above).

Impact ATAD – hybrid mismatch rules

As of 1 January 2020, the Netherlands has introduced anti-hybrid mismatch measures on the basis of the second Anti-Tax Avoidance Directive (ATAD II). Hybrid mismatches targeted by the rules include hybrid financial instruments, hybrid entities, hybrid permanent establishments and dual resident entities.

Luxembourg

For an entity to be considered as a CFC, the Luxembourg taxpayer must hold, directly or indirectly, more than 50% of the voting rights or profit entitlement in, or capital of the entity, which incurs an effective tax rate on its profits that is less than half of the Luxembourg corporate income tax (8.5% as per the rate applicable in 2021) it would have paid in Luxembourg on its profits.

To the extent that a Luxembourg company can establish that it does not perform significant functions related to the CFC's activities, there should not be an adverse tax impact in Luxembourg. In all cases, adequate documentation of activities and/or functions is recommended.

Impact ATAD – thin capitalisation rules / EBITDA

To the extent interest (and assimilated) expenses exceed interest (and assimilated) income, the deductibility of the exceeding borrowing costs will be capped at the higher of 30% EBITDA or EUR 3 million. The rule does not differentiate between intragroup and third party debt. Financial undertakings defined similarly as in ATAD, and standalone companies are exempt from this rule. Subject to conditions, where the company belongs to a group that has on a consolidated basis a higher debt/equity ratio, the cap does not apply. A surplus of deduction capacity and non-deductible exceeding borrowing costs may be carried forward under certain conditions.

Switzerland

The EU has introduced the Anti Tax Avoidance Directive (ATAD) underpinning the EU Commission's Action Plan to fight corporate tax avoidance. In essence, ATAD obliges EU Member States to introduce the following minimum, legally binding anti-corporate tax avoidance rules.

- Interest deduction limitation to in principle 30% of EBITDA of a company;
- A general anti-abuse rule (GAAR);
- Controlled foreign company (CFC) legislation applicable to both EU and third countries;
- Anti-hybrid mismatch rules applicable to both EU and third countries.

The EU ATAD is not applicable for Switzerland as Switzerland is not part of the EU.

However, ATAD has a substantial impact on the corporate tax position of EU businesses and therefore, the implications of ATAD can also impact certain Swiss business operations of multinational enterprises and require thus a case by case assessment.

Impact ATAD – CFC legislation

The EU ATAD is not applicable for Switzerland as Switzerland is not part of the EU.

Switzerland has not implemented any CFC provisions and does not apply any "subject to tax" rules. In principle, foreign companies are thus recognised for Swiss tax purposes, if they are managed and controlled abroad and their intended use does not serve Swiss tax avoidance purposes.

Belgium	The Netherlands	Luxembourg	Switzerland
"Exceeding borrowing costs" are defined as the positive difference between (a) the amount of the deductible interest costs (and other economically equivalent costs) of a taxpayer that are not allocable to a permanent establishment if its profits are exempt in accordance with a double tax treaty and (b) taxable interest revenues (and other economically equivalent revenues) that the taxpayer receives and that are not exempt pursuant to a double tax treaty. For taxpayers that form part of a group the exceeding borrowing costs and the threshold amount are to be considered on a consolidated basis over the Belgian group companies and Belgian permanent establishments of foreign group companies. A 'grandfathering' rule is provided for interest payments made for loans concluded prior to 17 June 2016, if no material changes were made. For these loans the thin capitalization rule (debt to equity ratio of 5:1) remains applicable. Various financial undertakings, investment and pension fund entities and public-private partnership companies are excluded from this interest limitation rule. **Impact ATAD – hybrid mismatch rules** Belgium has introduced hybrid mismatch rules on the basis of ATAD II.	The anti-hybrid measures in essence contain two types of rules: i. Denial of deduction: deduction of payments by a Dutch corporate taxpayer will be denied in case the payment is not regarded taxable income in the state of a recipient as a result of a hybrid mismatch (D/NI) or in case payments can be deducted twice as a result of such hybrid mismatch (DD). ii. Inclusion in income: it will be required to include in the taxable income of a Dutch corporate taxpayer the payments to such taxpayer, which would normally be exempt from Dutch corporate income tax or would not be recognised as income, but nevertheless can be deducted in the state of the payer due to a hybrid mismatch. If, even in the absence of a hybrid mismatch, the income would not be taxed because the recipient is exempt from profits tax abroad either because it is subjectively exempt or applies a special tax regime or the state in which the recipient is a resident has no profits tax at all (i.e. is a tax haven), the D/NI is considered not to be the result of a hybrid mismatch. Contrary to the directive, this applies to hybrid financial instruments as well.	Borrowings entered into prior to 17 June 2016 will not be affected, to the extent the features of the borrowing instrument are not modified. Please note that on 14 May 2020, Luxembourg was requested by the European Commission to amend its legislation on interest deduction limitation rules in relation to securitization special purpose entities. No action has been taken by Luxembourg at this time. The interest deduction limitation rule does not impact the deductibility of interest in relation to back-to-back financing activities on a standalone basis. All companies that have other activities should assess the impact of this rule, and where necessary adapt. This rule does not affect the generally applicable absence of withholding tax on interest, nor the debt qualification for net wealth tax purposes. **Impact ATAD – hybrid mismatch rules** The law of 19 December 2019 has implemented the second EU anti-tax avoidance Directive ('ATAD 2') in the Luxembourg law ('ATAD 2 Law') For the tax years starting on or after 1 January 2020, the anti-hybrid mismatches rules are applicable to intra-EU hybrid mismatches, as well as to third countries hybrid mismatch outcomes. The new rules seek to prevent mismatch outcomes that arise as a consequence of the hybridity of a financial instrument, legal entity or permanent establishment.	**Impact ATAD – thin capitalisation rules / EBITDA** The EU ATAD is not applicable for Switzerland as Switzerland is not part of the EU. However, Swiss thin capitalisation rules must be observed (see Section 2.5 above). **Impact ATAD – Exit tax** The EU ATAD is not applicable for Switzerland as Switzerland is not part of the EU. Swiss domestic rules: Upon relocation of the domicile, transfer of assets or business functions from Switzerland to abroad (outbound migration), outbound merger or liquidation: – For CIT purposes hidden reserves (difference between fair market value and the tax value) are subject to an exit taxation. The CIT rate varies between the cantons (see under 2.1 above). Participation Exemption may be applicable (see conditions under 2.2 above). – For WHT purposes hidden reserves (difference between (i) fair market value and (ii) the share capital plus qualifying capital contribution reserves) are subject to an exit taxation of 35%. A (full or partial) refund may apply based on a tax treaty or the CH/EU Agreement. For qualifying parent companies, a reduction or exemption at source (notification procedure) may be possible under certain conditions (see under 4.1 above).

Belgium

The hybrid mismatches covered by the rules include (i) payments on hybrid financial instruments, (ii) payments to or by hybrid entities, (iii) payments to hybrid permanent establishments, (iv) deemed payments between the head office and its establishment, or between two or more establishments to the extent it gives rise to a deduction without inclusion outcome, (v) payments made to an entity with one or more locations giving rise to a deduction without inclusion due to differences in the allocation of the payment between the head office and its establishment or between two or more establishments of the same entity under the law of the jurisdictions where the entity carries out its activities, (vi) payments by dual resident entities and (vii) payments to the extent they finance expenses deductible in the hands of the foreign company if no equivalent adjustment is made by the other state involved ('imported mismatches'), which can lead to deduction of such payment without inclusion or double deduction of such payment.

Exceptions may apply, dependent on the specific facts and circumstances.

These hybrid mismatches are tackled by means of (i) the disallowance of deductions from the Belgian corporate income tax base of costs relating to payments made in the context of a hybrid mismatch or (ii) the inclusion in the Belgian corporate income tax base of certain income received in the context of a hybrid mismatch.

The Netherlands

To fall within the scope of the anti-hybrid rules, these hybrid mismatches must occur between "associated enterprises" or "parties to a structured arrangement". The term "associated enterprises" is in principle defined as an entity in which the taxpayer holds directly or indirectly an interest of ≥25%, whereby the interests of parties that are considered to be "acting together" are aggregated. Whether an entity is considered associated should be determined at the level of the direct as well as the indirect investor. It is still unclear whether the sole participation in a fund entity would lead to a qualification of its investors as "associated enterprises". The Tax Plan 2022 includes a proposal to expend the definition of "associated enterprises" to related individuals as of 1 January 2022.

With the term "parties to a structured arrangement", unrelated parties are targeted that form part of a "structured arrangement" (very broad term), in which the hybrid mismatch advantage is priced, or the hybridity is part of the set-up of the arrangement. If the taxpayer or its group that qualify as parties to a structured arrangement do not benefit from the mismatch, and can reasonably not be expected to be aware of this mismatch, the rules will not apply.

Even if the main rule does not limit any interest deduction, deduction claimed by Dutch taxpayers may nonetheless be disallowed by virtue of the imported-mismatch rule.

Luxembourg

Targeted mismatch outcomes are:

- Deduction without inclusion: a tax deductible payment made by a taxpayer which is not correspondingly included in the taxable income at the level of the recipient;
- Double deduction: a taxpayer deducts the same payment in two countries, or two taxpayers take a deduction for the same payment in two different countries; and
- Double non-taxation or double tax credits: there is a mismatch in the allocation of income between a PE and its head office or between two or more PEs of the same taxpayer, or income is allocated to a disregarded PE, or the same income generates a tax credit in the hands of two different taxpayers as a result of a hybrid transfer of the income-generating asset.

Pursuant to the Luxembourg hybrid mismatch rules, the tax effects of the relevant hybrid mismatches are neutralized as follows:

- In case where a tax deduction is taken in Luxembourg without a corresponding inclusion in taxable income in another jurisdiction (i.e. deduction no inclusion outcome), or when the same expense is deducted twice, in Luxembourg and in the other jurisdiction (i.e. double deduction outcome), the deduction of the payment should be denied in Luxembourg;
- In case where the income received is exempt in Luxembourg, but the corresponding payment is deducted in the jurisdiction of the payer, Luxembourg should include the received income in its taxable basis.

Switzerland

Impact ATAD – hybrid mismatch rules

The EU ATAD is not applicable for Switzerland as Switzerland is not part of the EU.

Belgium	The Netherlands	Luxembourg	Switzerland
In case of a hybrid transfer that leads to multiple tax credits in various jurisdictions for the same withholding at source, the foreign tax credit has to be limited.	The imported mismatch rule applies if and to the extent: – the interest payments, legally or in fact, directly or indirectly, through a transaction or series of transactions between entities associated with the taxpayers or under a structured arrangement; and – fund deductible costs to which the Dutch anti-hybrid rules would have applied The 'funding of hybrid mismatches' may occur by means of multiple intermediary transactions between the Dutch taxpayer and the foreign entity causing the hybrid mismatch. Contrary to ATAD2, for the imported mismatch rule to apply, it is required that all entities involved in the series of transactions are associated enterprises. It is further required that a connection exists between all transactions in the series of transactions. The rule does not apply if another country involved has made a similar adjustment as prescribed by the Dutch rules. In addition to the rules based on ATAD2, a documentation requirement applies for Dutch corporate taxpayers to include information in their administration that is relevant in order to determine if and to what extent a payment is affected by the anti-hybrid rules.	The hybrid mismatch outcome must occur between 'associated enterprises' or parties to a 'structured arrangement'. Under the new hybrid mismatch rules, an 'associated enterprise' means: – an entity that is part of the same consolidated group for financial accounting purposes as the taxpayer; – an enterprise in which the taxpayer has a significant influence in the management, or an enterprise that has a significant influence in the management of the taxpayer; or – either (i) an entity (capital company, partnership, etc.) in which the taxpayer holds directly or indirectly at least 25%/50% (as applicable) of the voting rights or capital ownership or is entitled to receive 25%/50% (as applicable) or more of the profits of such undertaking, (ii) an individual or entity which holds directly or indirectly 25%/50% (as applicable) or more of the voting rights or capital ownership of the taxpayer or is entitled to receive 25%/50% (as applicable) or more of the profits of the taxpayer or (iii) in case an entity or an individual holds directly or indirectly 25%/50% (as applicable) or more of the voting rights or capital ownership of the taxpayer and one more other entities, all entities concerned (including the taxpayer, constitute 'associated enterprises' (i.e. the Ownership Test).	

Belgium	The Netherlands	Luxembourg	Switzerland

The Netherlands

As of 1 January 2022, the reverse hybrid rule will enter into force, and applies to entities that are considered transparent in their country of residence, but non-transparent for purposes of ≥ 50% of the (direct or indirect) associated investors in such entity. In such case, the transparent entity becomes subject to tax in the Netherlands.

Transfer pricing mismatch rules

Based on long-standing case law in the Netherlands, non-arm's length conditions of transactions between related parties are adjusted as if the conditions were made between independent parties. It is proposed to restrict certain transfer pricing adjustments resulting in double non-taxation as of 1 January 2022.

The legislative proposal includes three main elements:

i. The arm's length principle will not be applied if this leads to a reduction of the Dutch taxable profit (e.g. through an "informal capital contribution" or "deemed dividend") to the extent that the related party to the transaction does not include a corresponding upward adjustment in its profit tax base.
ii. No adjustment in tax basis to the arm's length value for assets and liabilities that are transferred by a related party to a Dutch taxpayer for which the agreed or imposed price is at a value below (for assets) or above (for liabilities) the arm's length value to the extent that no corresponding adjustment for the arm's length value is taken into account in the transferor's profit tax base.

Luxembourg

For the purpose of the Ownership Test, when a person 'acts together' with another person with respect to the voting rights or capital ownership in an entity, their participations in such entity will be aggregated in order to determine whether they are 'associated' to that entity.

Pursuant to ATAD 2 law, when a person acts together with another person with respect to the voting rights or capital ownership in an entity, their participations in such entity will be aggregated in order to determine whether they are 'associated' to that entity. In the absence of evidence to the contrary, an investor who owns (directly or indirectly) less than 10% of the interests in an investment fund and is entitled to less than 10% of the profits of said fund should not be considered as acting together with another investor in the same fund.

A structured arrangement involves a hybrid mismatch where the mismatch outcome is priced into the terms of the arrangement or an arrangement that has been designed to produce a hybrid mismatch outcome, unless the taxpayer or an associated enterprise could not reasonably have been expected to be aware of the hybrid mismatch and did not share in the value of the tax benefit resulting from the hybrid mismatch".

Belgium	The Netherlands	Luxembourg	Switzerland
	iii. The amount of depreciation to be taken into account (going forward) by a Dutch taxpayer on assets acquired from a related party before 1 January 2022 may be limited in respect of assets that were transferred in tax book years starting on or after 1 July 2019 and which would – at the time of transfer – be targeted by the legislative proposal, had the legislation been in force at the time.	Pursuant to the 'reverse hybrid rule', which will apply only as of tax year 2022, Luxembourg transparent entity can become subject to Luxembourg CIT on certain income paid to it if one or more associated non-resident entities holding in aggregate 50% of direct or indirect voting rights, capital interest or share of profit in a hybrid entity are located in a jurisdiction that see the entity as a taxable entity. In such case, the Luxembourg entity will be taxed on part of the income paid to it to the extent that such income it is not taxed otherwise. **Blacklisted jurisdictions** As from March 1, 2021, interest and royalties due by a Luxembourg taxpayer to related entities established in a country or jurisdiction appearing on the EU list of non-cooperative jurisdictions (EU Blacklist) are not deductible. For purposes of this rule, two entities are considered related if (i) one directly or indirectly participates in the management, control or capital of the other or (ii) the same persons directly or indirectly participate in the direction, control or capital of both entities. If the legal recipient of the interest or royalties is a transparent entity from a Luxembourg tax perspective, the legal recipient is looked through up to the first direct or indirect entity in the holding chain that is treated as a corporate entity from a Luxembourg tax perspective.	

Belgium	The Netherlands	Luxembourg	Switzerland
		Furthermore, for purposes of this rule, the recipient must be the beneficial owner of the income. If the recipient is not the beneficial owner, the application of this rule is assessed at the level of the beneficial owner. The denial of the deduction does not apply when the taxpayer demonstrates that valid business reasons exist for the underlying transaction, which are genuine in view of the overall facts and circumstances. The Luxembourg taxpayer has the burden of proof regarding the existence of valid business reasons. The rule applies to countries and jurisdictions appearing on the most recent version of the EU Blacklist published by the EU Council. As a result: – With respect to the period from 1 March 2021 through 5 October 2021, the rule applies to American Samoa, Anguilla, Dominica, Fiji, Guam, Palau, Panama, Samoa, the Seychelles, Trinidad and Tobago, the US Virgin Islands and Vanuatu. – With respect to the period from 5 October through 31 December 2021, the rule applies to American Samoa, Fiji, Guam, Palau, Panama, Samoa, Trinidad and Tobago, the US Virgin Islands and Vanuatu.	

Belgium	The Netherlands	Luxembourg	Switzerland
		For subsequent calendar years, the rule will apply to countries and jurisdictions appearing on the most recent version of the EU Blacklist published by the EU Council as of January 1st of the relevant year. If a country is removed from the EU Blacklist during a year, the rule will cease to apply as from the date of removal (as published by the EU Council). If a country is added to the EU Blacklist during a year, the rule will only apply as from the following year if such country remains on the most recent version of the EU Blacklist published by the EU Council as of January 1st of that following year.	

6. Tax and investment incentives

Belgium	The Netherlands	Luxembourg	Switzerland
Tax shelter for audio-visual productions Under the tax shelter regime for audio-visual productions an agreement is concluded between an investor and a producer of audio-visual works. In such an agreement the investor commits to (partly) fund the production and in return the producer commits to deliver a tax shelter certificate after finalising the production. The investor is able to preliminarily exempt from tax an amount equal to 421% (as from a taxable period that begins no earlier than January 1, 2020) of the amounts he has agreed to provide during the tax year in which the agreement was entered into. **Start-ups** In addition, there are certain tax incentives for investments in start-ups (e.g. a personal income tax reduction with respect to investments in start-ups and a reduced interest withholding tax rate for start-up related loans). **Innovation income deduction** Under the innovation income deduction regime, companies that invest in their own R&D, benefit from a tax deduction of up to 85% of the net innovation income resulting from their R&D activities.	There are several tax and investment incentives in the Netherlands. For example, the Dutch tax regime includes the ‘fiscal investment institution’ (*fiscale beleggingsinstelling*, FBI), which should serve as a tax neutral vehicle through which individual investors can pool their portfolio investments. Another example is the ‘innovation box’, which ensures that a company’s income resulting from innovation is taxed at a reduced corporate tax rate of 9% (instead of 25% in 2021 and 25.8% expected as of 2022). There are also several other tax incentives for specific types of investments (e.g. a deduction for energy-related investments and accelerated depreciation). In addition, the Netherlands has an extensive double tax treaty network and bilateral investment treaty network.	For taxpayers involved in commercial, industrial, mining or artisanal activities, Luxembourg provides for various tax incentives in areas including R&D. The new IP regime entered into force on 1 January 2018. Luxembourg also provides for an incentive tax regime in relation to employment of skilled workers (so-called expatriate regime). The most commonly used incentives are tax credits (e.g. investment tax credit, tax credit regime in relation to the hiring of long-term unemployed workers) or exemption (e.g. patent box) whereas cash grants and interest subsidies are favoured to support R&D activities and are not subject to onerous formal application requirements.	Several tax and investment incentives are available, for example full or partial tax holidays on federal and cantonal / communal level in certain areas if certain conditions are fulfilled.

7. MLI and income tax treaties

7.1 Signatory to the MLI / ratification

Belgium	The Netherlands	Luxembourg	Switzerland
Belgium signed the MLI on June 7, 2017. Belgium made a number of reservations to the provisions in the MLI. Belgium will not apply article 4 (dual resident entities), article 5 (application of methods for elimination of double taxation), article 9 (1) (a) (capital gains on shares in real estate companies), article 10 (anti-abuse rule for permanent establishments situated in third countries) and article 14 (splitting-up of contracts). Belgium has chosen for the principle purpose test without 'limitation on benefits' clause in relation to article 7 (prevention of treaty abuse) and option B in relation to article 13 (artificial avoidance of permanent establishment status – specific activity exemption). On June 26, 2019 Belgium deposited its instrument of ratification. The MLI entered into force for Belgium on October 1, 2019. The MLI provisions will have effect with respect to withholding taxes on taxable events that occur on or after January 1, 2020 (for Belgium). For all other taxes, the provisions will have effect on taxable periods that begin on or after April 1, 2020 (for Belgium). In case the taxable period follows the calendar year, the provisions will only have effect on other taxes levied over taxable periods starting on or after January 1, 2021.	The Netherlands signed the MLI on 7 June 2017. The Netherlands has largely accepted all provisions in the MLI, with limited reservations. The Netherlands has chosen for option A in relation to article 5 (Application of Methods for Elimination of Double Taxation) and the 'principal purpose test' without 'limitation on benefits' clause in relation to article 7 (Prevention of Treaty Abuse). The Netherlands will not apply article 11 (savings clause).	Luxembourg has deposited its ratification of the MLI with the OECD in April 2019. The MLI enters into force for Luxembourg on October 1, 2019. The positions taken upon ratification of the MLI do not deviate from the provisional list of choices and reservations notified by Luxembourg to the OECD in June 2017.Luxembourg applies the principal purpose test, which denies the benefits that would otherwise be provided under tax treaties when one of the principal purposes of the transaction is to obtain treaty benefits. Regarding withholding tax on dividends, the Luxembourg indicated that it will not apply article 8 of the MLI related to dividend transfers transactions to its double tax treaties. On 6 November 2020 Russia and Luxembourg signed a new protocol amending the Income and Capital Tax Treaty concluded between Russia and Luxembourg on 28 June 1993. The new protocol entered into force on 5 March 2021 and will take effect for any taxable period beginning on or after 1 January 2022. Under the new protocol, the withholding tax rate on interest and dividends is raised to 15%. A reduced 5% withholding tax rate shall apply to dividend payments where the beneficial owner of those payments is a resident of the other contracting state and is either:	The MLI was signed by Switzerland on June 7, 2017 and entered into force on December 1, 2019. Switzerland implements only a minimum standard either within the framework of the MLI or by means of the bilateral negotiation of DTTs. With respect to the effect the MLI has on covered tax agreements Switzerland follows the "amending view". Switzerland has reserved the right to apply the MLI only to a tax agreement once Switzerland has expressly notified the OECD that it has completed its internal procedures to amend the specific treaty. Switzerland expressed reservations on the majority of the articles of the MLI, i.e. committed to the application of only the international minimum standards. Therefore, Switzerland will adhere to the new standards on (i) the prevention of treaty abuse by applying a principle purpose test (PPT) and (ii) dispute resolution to avoid double taxation.

Belgium	The Netherlands	Luxembourg	Switzerland
		– an insurance undertaking or a pension fund; or – a company whose shares are listed on a registered stock exchange provided that no less than 15% of the voting shares of that company are in free float and which holds directly at least 15% of the capital of the company paying the dividends throughout a 365 day period that includes the day of the payment of the dividend; or – the Government, a political subdivision, a local authority, or the Central Bank of the other contracting state. The 5% reduced withholding tax rate shall also apply to interest arising in a contracting state and paid to a resident of the other contracting state who is the beneficial owner of the interest and is a company whose shares are listed on a registered stock exchange provided that no less than 15% of the voting shares of that company are in free float and which holds directly at least 15% of the capital of the company paying the interest throughout a 365 day period that includes the day of the payment of the interest.	

Belgium	The Netherlands	Luxembourg	Switzerland
		No withholding tax should be applied in the source jurisdiction if: 1. the beneficial owner is: - a bank; - an insurance undertaking or a pension fund; - the Government, a political subdivision, a local authority, or the Central Bank of the other contracting state; or 2. the interest is paid on the following securities listed on a registered stock exchange: - government bonds; - corporate bonds; or - Eurobonds.	

7.2 Income tax treaties and effect of the MLI[1]

Treaties between countries included in this brochure that will be amended by the MLI are shown in in the overview below. The relevant treaty is included below in **bold** in case both countries have listed the respective treaty as a Covered Tax Agreement. In case both countries have deposited their instrument of ratification, the date of entry into effect of the MLI for withholding taxes is included. In case both countries have opted for provisions of articles 4, 9 and/or 10 of the MLI and the treaty will be amended for these articles, this is also included below. For detailed provisions, including the exact amendments of articles 4, 9 and 10 and the other provisions, reference is made to the OECD MLI Matching Database. This overview provides the status as of 1 June 2021.

Belgium	The Netherlands	Luxembourg	Switzerland
1. **Bulgaria**	1. Belgium*	1. **Belgium** (1/1/2020)	1. Belgium
2. **Croatia** (1/1/2022)	2. Bulgaria	2. **Bulgaria**	2. Bulgaria
3. **Cyprus** (1/1/2021)	3. **Croatia**	3. **Croatia** (1/1/2022)	3. Croatia
4. **Czech Republic** (1/1/21)	4. Cyprus (new treaty signed on 1/6/2021)	4. Cyprus	4. Cyprus
5. **Estonia** (art. 9 (1) (b) MLI)	5. **Czech Republic** (1/1/2021)	5. **Czech Republic** (1/1/2021)	5. **Czech Republic**
6. **Hungary** (1/1/2022)	6. **Estonia**	6. **Estonia**	6. Estonia
7. **Latvia** (1/1/21)	7. **Hungary**	7. **Hungary** (1/1/2022)	7. Hungary
8. **Lithuania** (1/1/2020)	8. **Latvia** (1/1/2021)	8. **Latvia** (1/1/2021)	8. Latvia
9. **Luxembourg** (1/1/2020)	9. **Lithuania** (1/1/2020)	9. **Lithuania** (1/1/2020)	9. **Lithuania**
10. **Malta** (1/1/2020)	10. **Luxembourg** (1/1/2020)	10. **Malta** (1/1/2020)	10. **Luxembourg** (1/1/2021)
11. Netherlands*	11. **Malta** (1/1/2020)	11. **Netherlands** (1/1/2020)	11. Malta
12. **Poland** (1/1/2020) (art. 9 (1) (b) MLI)	12. Poland	12. **Poland** (1/1/2020)	12. **Netherlands** (1/1/2021)
13. **Romania**	13. **Romania** (art. 4(1) and 10 (1) through (3) MLI)	13. **Romania**	13. Poland
14. **Slovakia** (1/1/2020)	14. **Slovakia** (1/1/2020, art. 4 (1) and 10 (1) through (3) MLI)	14. **Slovakia** (1/1/2020)	14. Romania
15. **Slovenia** (1/1/2020)	15. **Slovenia** (1/1/2020)	15. **Slovenia** (1/1/2020)	15. Slovakia
16. Switzerland	16. **Switzerland** (1/1/2021)	16. **Switzerland** (1/1/2021)	16. Slovenia

1 Only comprehensive income tax treaties potentially relevant for investment in and from CEE countries are included.

* Currently under (re)negotiations in order to change or replace the existing tax treaty.

Part II

Czech Republic, Hungary, Poland, Slovakia

1. Capital tax / stamp duty / real estate transfer tax / real estate tax

Czech Republic

Capital tax
There is no capital contribution tax in the Czech Republic.

Stamp duty
The registration of a new company in the commercial register and subsequent changes, including the change of a shareholder or increase / decrease of registered capital, trigger a minor stamp duty (CZK 2,000 – 12,000).

EUR 1 = CZK 26,140 (4 January 2021)

If a notarial deed is required (e.g. for establishment of a company, increase / decrease of registered capital etc.), notarial fees are calculated based on certain criteria (e.g. registered capital) and may vary significantly.

Real estate transfer tax
Currently, there is no real estate transfer tax in the Czech Republic.

The real estate transfer tax of 4% was abolished in September 2020, with retroactive effect as of December 2019.

Real estate tax
The real estate tax is payable by the owner based on the area of land or the size of a building taking into account the attractiveness of the location. The tax rate is, generally, defined as a fixed amount per square meter.

Hungary

Capital tax
There is no capital (contribution) tax in Hungary.

Stamp duty
Stamp duty is levied on the registration of any changes made to the data of the Company Register, including transformations (incorporation of companies is not subject to stamp duty).

Stamp duty is, for instance, levied on an amount of:
- HUF 100,000 (approx. EUR 286) in the case of the registration of a private stock company;
- HUF 600,000 (approx. EUR 1715) in the case of registration of a European company;
- HUF 500,000 (approx. EUR 1430) stamp duty applies for the transformation of a private stock company into public stock company;
- HUF 50,000 (approx. EUR 143) in the case of the registration of a branch office;
- HUF 50,000 (approx. EUR 143) in the case of registering a representative office;
- Fixed registration duty of HUF 15,000 (approx. EUR 43) applies for further amendments of the AoA.

If the registered capital of the company is changed, the stamp duty is levied at 40% of the incorporation fees applicable for the given company type (see above).

Poland

Capital tax
In general, a capital contribution to a Polish company is subject to 0.5% capital tax. The tax base is the value of share capital increase resulting from the contribution; the share premium is not subject to tax.

Increase of a company's share capital is not subject to tax if:
- as a result of the contribution the company acquires a majority of voting rights in another company (or the acquiring company that prior to the contribution already holds majority voting rights in the acquired company receives additional voting rights), or
- the object of the contribution is an enterprise or an organised part of enterprise of the company.

Mergers of companies and transformation of a limited liability company into a joint stock company (and vice versa) are not subject to transfer tax. Conversion of a company into partnerships may in some cases be subject to tax.

The sale of shares and partnership interests in Polish entities is subject to 1% tax, which is payable by the buyer. Sale of shares in joint stock companies may be exempt from the 1% tax under certain conditions, e.g. if a brokerage house acts as intermediary in the transaction.

Slovakia

Capital tax
There is no capital contribution tax in Slovakia.

Stamp duty
The incorporation of a new company is subject to a registration fee depending on the form of the company (EUR 375 for a joint stock company and EUR 150 for any other form) and a duty payable upon the registration of the change in the registered capital of a company (EUR 33).

Non-monetary contribution to the registered capital of a company must be evaluated by the expert opinion or by audited financial statements.

Real estate transfer tax
Real estate transfer tax has been abolished as per 1 January 2005.

Real estate tax
Real estate located on the territory of the Slovak Republic is subject to real estate tax, which is levied on buildings, land and apartments. In general, the owner of a real property is obliged to submit a tax return for the calendar year immediately following the year in which the real estate was purchased. The tax is payable on the basis of the tax assessment issued and distributed by the tax authorities.

The real estate tax base is calculated according to the area in square metres on buildings and apartments or the value of land.

Czech Republic	Hungary	Poland	Slovakia
The real estate tax compliance is somewhat burdensome but the tax itself does not usually represent a material cost.	**Real estate transfer tax** The transfer of property is subject to transfer tax payable by the purchaser, calculated on the market value of the property transferred. The real estate transfer tax is 4% up to HUF 1 billion (approx. EUR 2,860,000), while the rate on the excess is only 2%. These are altogether capped at HUF 200 million (approx. EUR 570,000) per real estate. Real estate traders, funds, REITs and leasing companies may be subject to a flat rate 2% transfer tax under certain conditions. The acquisition of a building site may be exempt from transfer tax if the purchaser builds a residential building on the real property within four years. Transfer tax is not only levied on the acquisition of real estate but also on the acquisition of shares in a real estate company, if the shares obtained (either by the acquirer alone or altogether with close relatives or its related companies, as the case may be) reach 75% of all the shares.	In general, the granting of loans is subject to 0.5% transfer tax. There are exemptions for: – loans granted by foreign entities that carry on activities in the area of granting bank loans and regular loans; – loans recognised as financial services exempt from VAT; and – shareholder loans (no minimum shareholding is required). Nevertheless, loans granted to a partnership by its partners are always subject to 0.5% tax (such loans cannot benefit from the exemption). **Real estate transfer tax** Sale of real estate is subject to 2% transfer tax only if the transaction is outside the scope of VAT or is exempt from VAT. **Real estate tax** The real estate tax generally applies to the owners, perpetual usufructuaries and freeholders of properties. The tax applies to (i) land, (ii) buildings or parts thereof and (iii) constructions or parts thereof connected with business activities. RET is payable to local authorities, which set RET rates within the statutory maximum rates.	The basic tax rates for buildings, land, and apartments are stipulated in the Act on Municipal Taxes (0.25% of the total value of the land or EUR 0,033 for each square metre of building and/or apartment). However, the rates can be changed by the respective municipality.

Czech Republic	Hungary	Poland	Slovakia
	A real estate company is a business association that: – owns real estate located in Hungary for more than 75% of the overall assets (liquid assets, financial receivables, loans, deferred income and accrued expenses excluded), taking into account the book values of the assets as registered in the balance sheet at the balance sheet date; or – has a direct or indirect share of at least 75% in a business association that owns real estate located in Hungary for more than 75% of the overall assets (liquid assets and financial receivables, loans, deferred income and accrued expenses excluded), taking into account the book values of the assets as registered in the balance sheet at the balance sheet date. The transfer tax is levied on the market value of the real estate, prorated to the shares being acquired. On certain conditions, the transfer of real estate or shares in real estate companies between related parties may be exempt from transfer tax. **Building tax** It may be imposed by local municipalities. It is an annual levy on the owners of buildings registered as such as of 1 January of the given tax year.	The maximum RET rates in 2021: – on land used for business activities - PLN 0.99 per m^2 (i.e. PLN 9,900 per ha); – on buildings or parts thereof used for business activities - PLN 24.84 per m^2 of usable surface; – on constructions or parts thereof used for business activities - 2% tax on the initial value of a construction, adopted for tax depreciation purposes. PLN 1 = € 0.21772262138 (21 October 2021)	

Czech Republic	Hungary	Poland	Slovakia
	The legislation fixes the upper limit of the rate at HUF 1,100 (approx. EUR 3.15) / m^2 or at 3.6% of the adjusted market value (= 50% of the market value) of the building. **Tax on land** The owner of land situated in the territory of a municipality may be taxed by the relevant local municipalities. The upper limit of the tax is fixed at HUF 200 (approx. EUR 0.57) /m^2 or at 3% of the adjusted market value (= 50% of the market value) of the land. HUF 1 = € 0.0029 (2021)		

2. Corporate income tax (CIT)

2.1 CIT and wealth taxes

Czech Republic

The general CIT rate is 19% for tax periods from 2010 onwards.

A special rate of 5% applies to taxable profits of certain investment funds (generally retail funds or funds investing in certain securities). Also a special rate of 0% applies to taxable profits of pension funds. Domestic source income subject to a final withholding tax is not included in the CIT base.

Resident companies (i.e. legal entities seated or having a place of effective management in the Czech Republic) are taxed on their worldwide income. The tax base is computed based on the accounting profit based on the Czech accounting standards. The accounting profit is then adjusted for tax purposes.

Wealth taxes
There is no wealth tax in the Czech Republic.

Hungary

The general CIT rate is flat 9%.

Licensing incentive
50% of the profit from royalty revenues may be deducted from the CIT base. The amount of the reduction may not exceed 50% of the pre-tax profits of the given tax year.

Minimum tax base
If both the pre-tax profit and the tax base of an entity are less than the ‘minimum tax base’, i.e. 2% of the entity’s total revenues and are adjusted by certain items (e.g. income attributable to a permanent establishment abroad, certain percentage of shareholder loans), the minimum tax base will apply, unless the taxpayer chooses to provide a special declaration detailing its cost and income structure to the tax authority proving that its general tax base is accurate. This rule does not apply in the pre-company period and in the first tax year.

Poland

The general CIT rate is 19%, however lowered rates (of 9% or 5%) are possible in certain cases. A company is regarded a Polish tax resident if it has either its registered office or place of management in Poland. A Polish resident company is subject to CIT on its worldwide income.

Starting from 2021 (either from 1 January or 1 May) Polish limited partnerships (in Polish: *spółki komandytowe*) became CIT taxpayers, regardless of their scale of operations, ownership structure or status of partners. As a rule, limited partnerships are now covered by all regulations provided for in the CIT Act for capital companies with some exceptions mentioned on the next pages. The general partner of the partnership is entitled to reduce the tax on distribution from the limited partnership by CIT paid by the limited partnership, in the proportion in which the general partner participates in the profits of this partnership.

50% of the revenue obtained by a limited partner from participation in a limited partnership, but no more than PLN 60 thousand per year (the limit for each limited partnership) is exempt from taxation.

The application of the above exemption is excluded if the existing relationships between the general partners of the limited partnership or the manner in which the partnership is managed would indicate an “optimization purpose” for the establishment of the partnership by its partners.

Slovakia

As from 1 January 2017, the general CIT rate is 21%. Legal entities seated in Slovakia are taxed on their worldwide income.

A special reduced 15% CIT rate applies, if revenues (income) for relevant tax period do not exceed EUR 49,790; otherwise, the above mentioned general rate applies.

As of 1 January 2021 a legal entity may obtain a status of micro-taxpayer and be eligible for various (more or less technical) tax advantages provided its taxable income does not exceed EUR 49,790 during the entire taxation period (some exceptions apply). The advantages comprise more favourable rules for depreciation of tangible assets, tax loss carry-forward, tax deductibility of provisions for impairment, reduced 15 % tax rate.

Wealth taxes
There is no wealth tax in Slovakia.

Czech Republic	Hungary	Poland	Slovakia
	Foreign tax credit In the absence of a treaty, unilateral relief is provided by way of a credit for income taxes paid abroad. Unilateral credit relief will be determined separately for each item of foreign-source income. The credit will be limited to 90% of the foreign tax and cannot exceed the Hungarian tax burden on the relevant income. *Local business tax* Hungarian companies are subject to local business tax, at a maximum rate of 2%. The tax base is fundamentally the turnover, less costs of goods sold and cost of mediated services (which are subject to certain limitations) and costs of materials, subcontractor fees and direct R&D costs. Interest and royalty income are not subject to local business tax. **Wealth taxes** There is no wealth tax in Hungary.	As of 1 January 2021, general partnerships (in Polish: *spółki jawne*; that still are tax transparent entities in 2021) may become CIT taxpayers only if such general partnership has not filed with the head of the tax office information on CIT or PIT taxpayers holding, directly or through non-taxpayers, rights to share in the profits of that general partnership. 9% CIT rate is applicable to revenues (incomes) other than from capital gains – in the case of the taxpayers as regards which the revenues earned in a tax year did not exceed an amount being the equivalent in PLN of EUR 2 million converted as at the first business day of the tax year. The taxpayers mentioned above shall apply the 9% tax rate if they have the status of a small taxpayer. A small taxpayer is a taxpayer in whose case the value of revenue from sales (including the amount of output VAT) did not exceed in the preceding tax year an amount being the equivalent of EUR 2 million (EUR 1.2 million in 2019). The requirement of having a small taxpayer status do not apply to the taxpayers commencing the business activity, in the year of the commencement of such activity (therefore, generally a newly established companies can benefit from the reduced CIT rate of 9% in the first year).	

Czech Republic	Hungary	Poland	Slovakia
		There are some restrictions to benefit from 9% CIT rate for taxpayers who were subject to restructuring. As limited partnerships are now covered by all regulations provided for in the CIT Act for capital companies, they can apply a reduced CIT rate of 9% on revenues below EUR 2 million per year. Non-resident companies are subject to CIT only on income from Polish sources (i.e. earned in Poland), unless a double tax treaty (DTT) provides otherwise. Income of Polish investment and pension funds, as well as Polish-sourced income of foreign investment and pension funds fulfilling certain conditions, may be exempt from CIT in Poland (the CIT exemption is not applicable in case of some funds owning commercial buildings or in the case of investing in the tax transparent entities). Information on the lowered 5% CIT rate is presented in Section 6. CIT taxpayers have to calculate income from capital gains separately from other income (e.g. operational income). Therefore, if the taxpayer earns income from only one of these sources, and in the second source incurs a tax loss - income from one source is taxed without deducting the loss incurred on the second source of revenue.	

Czech Republic	Hungary	Poland	Slovakia
		Minimum CIT on rented real estate (Minimum Tax) Minimum Tax must be paid by owners of commercial real estate properties (office buildings, shopping malls, department stores, markets, boutiques and other buildings) which initial value exceeds PLN 10 million. As of 2019 Minimum Tax was extended to all of the buildings leased to third-parties. Moreover, tax base is currently calculated as cumulative value of buildings owned by the taxpayer decreased by PLN 10 million. The tax is paid on a monthly basis. The monthly rate is 0.035% and tax base is determined as initial value of building for tax purpose decreased by PLN 10 million. Minimum Tax may be deducted from advance payments on CIT and annual CIT liability in a year for which Minimum Tax was due. If no CIT is due in a given year, the taxpayer is entitled to apply for return of the Minimum Tax paid during the year. Due to the COVID Pandemic, there is currently a Minimum Tax exemption applicable until the end of the epidemic state in Poland.	

Czech Republic	Hungary	Poland	Slovakia
		So called "Estonian" CIT Since 1 January 2021 the possibility of applying the so-called "Estonian" CIT was introduced in Poland. The Estonian CIT is available to companies whose annual revenues do not exceed PLN 100 million and who will use the profit for reinvestment. "Estonian" CIT is available only to capital companies - limited liability companies or joint stock companies in which shareholders are only natural persons. The main purpose of Estonian CIT is to allow selected taxpayers (who meet certain conditions) to pay income tax only at the moment of payment of profits to their shareholders, e.g. in the form of dividends. There are two possibilities to apply the Estonian CIT. In the first one, all profits are allocated to investments and all of them reduce tax (increase tax deductible costs). Under the second option, the taxpayer is able to deduct part of the profits to a special fund - the investment account. Companies are able to benefit from Estonian CIT if certain conditions are met (e.g. the shareholders of the company should be natural persons only, the company should not hold shares in other entities, the company's passive income should not exceed the income from its operating activity).	

Czech Republic	Hungary	Poland	Slovakia
		The method of taxation is chosen for a period of 4 years (after the end of this period, provided that the conditions are met, the taxation with Estonian CIT can be continued). In addition, shareholders are required to submit to the company a statement of their shares, rights and obligations. **Real estate company** On 1 January 2021, a definition of a real estate company was introduced to the CIT Act. It is a company in which as at the last day of the previous fiscal year at least 50% of carrying amount of the assets constituted, directly or indirectly, the value of real estate located in Poland, and the value exceeded PLN 10 million. If the company is not a taxpayer of income tax – at least 60% of the company's revenues are revenues from rental, sublease, lease or similar agreements relating to real estate or rights to the real estate or shares in other real estate companies. A real estate company is a tax remitter with respect to a CIT advance payment resulting from the sale of shares in this company. This new mechanism transfers the tax settlement obligation arising from the sale of shares in the real estate companies from a foreign (i.e. non-Polish) seller to a real estate company which shares are subject to sale.	

Czech Republic	Hungary	Poland	Slovakia
		For real estate companies without a registered seat or corporate management in Poland, located outside the EU or EEA (e.g. Switzerland, UK after Brexit) there is an obligation to appoint a tax representative in Poland. Real estate company whose shares are being sold is obliged to pay 19% CIT advance payment to a relevant tax office within 20 days from the beginning of a month starting after a month in which the income from the sale arose, if in particular: – selling company is an entity not having its registered office or management board in Poland and – shares being sold grant at least 5% of the voting rights in the company. Seller as the taxpayer is obliged to provide the tax remitter with the amount of the advance CIT to be paid before the date referred to above. On the date of payment, the real estate company is obliged to send to the taxpayer the information about the advance payment (prepared in accordance with the specific form determined by the Ministry of Finance). The Ministry of Finance will be publishing the data of taxpayers which are real estate companies (regardless of the value of income). Published data will include the amount of revenue, expenses, income / loss, tax amount for the given year.	

Czech Republic	Hungary	Poland	Slovakia
		There are also new obligations that were imposed on real estate companies and their shareholders (being Polish taxpayers) holding directly or indirectly at least 5% of shares, stocks or rights of similar nature. Real estate companies now have an obligation to disclose to the Head of National Revenue Administration information on their direct and indirect shareholders. Moreover, direct and indirect shareholders of real estate companies (however only if they are taxpayers in Poland) holding directly or indirectly at least 5% of shares, stocks etc. are obliged to report real estate companies in which they hold shares, stocks etc. The information should be submitted electronically within 3 months from the end of the tax year of the real estate company. It should be noted that the regulations became effective on 1 January 2021, and the amending act (which imposed the new laws) do not provide for transitional provisions in this regard (which would determine the relationship between the provisions contained in the new act to the regulations being previously in force). The first reporting deadline is set on 2022. A real estate company whose tax year is other than the calendar year and lasts, e.g. from 1 July 2020 to June 2021, acquired the status of a real estate company from 1 January 2021.	

Czech Republic	Hungary	Poland	Slovakia
		This means that in the situation of a real estate company whose tax (fiscal) year begins in 2020 and ends in 2021, it will be required to provide the information within three months after the end of its fiscal year, i.e. still in 2021. **Tax strategy** The CIT Act introduced the annual obligation to draw up and publish a report on the implementation of the tax policy by tax capital groups and taxpayers whose revenue for the previous year exceeds EUR 50 million. The report on the tax strategy executed in a given year should be presented by a taxpayer on the website in Polish, within 12 months from the end of each tax year. The website address should be also provided to the head of the tax office. The scope of provided information is very wide and covers, i.a. information on: – procedures used by the taxpayer to manage the performance of obligations that arise from the provisions of tax law; – voluntary forms of cooperation with tax authorities; – the taxpayer's performance of tax obligations in the territory of Poland, together with the number of submitted information on tax schemes; – transactions with related entities which value exceeds 5% of balance sum of assets; – planned or undertaken restructuring activities;	

Czech Republic	Hungary	Poland	Slovakia
		– applications for tax rulings submitted by a taxpayer; – binding rates and excise tax; – tax settlements in countries applying abusive tax practices. The new regulations are unclear, they do not provide a definition of tax strategy and the catalogue of information that is required to be published is open (and as such exemplary). The legislator has indicated that the scope of the published information should cover all the relevant data corresponding to the type and size of the business activity. It is unclear whether the first strategy should be published for 2021 or 2020 however, the Ministry of Finance takes the position that the first tax strategy information should be filed for 2020 by 31 December 2021. Failure to send the head of the tax office information on the address of the website on which the strategy has been published may result in a fine of up to PLN 250 thousand. **Notional Interest Deduction** The Polish Notional Interest Deduction rules were introduced on 1 January 2019. They can be however applied first time to the tax year started after 31 December 2019. An equity increase performed in 2019 Is treated as made in a tax year started after 31 December 2019.	

Czech Republic	Hungary	Poland	Slovakia
		The interest deduction on equity is calculated as a percentage of a company's equity increase. In order to determine equity increase the factors to consider include additional payments - contributions in cash, starting from the payment date, net profits allocated to reserves (the reserve capital or the supplementary capital). The formula to determine the deductible interest rate is the reference rate of the National Bank of Poland – 1.5%, increased by 1 percentage point. Total amount of tax deductible costs deducted in the tax year resulting from NID regime may not be higher than PLN 250,000 (approx. EUR 60,000). The NID cannot create a tax loss. If the notional return exceeds the taxable income calculated for a given tax year, the excess may be deducted in subsequent tax years. The Polish NID applies also to permanent establishments in Poland of non-resident companies. As of 1 January 2021, NID does not apply when the decision to make shareholder contributions or to withhold profit was made without valid economic reasons, mainly to achieve a tax benefit. **Wealth taxes** There is no wealth tax in Poland.	

2.2 Dividend regime (participation exemption)

Czech Republic	Hungary	Poland	Slovakia
National A domestic distribution of dividends is exempt from taxation if the recipient is a company of a qualifying legal form, beneficial owner and holds at least 10% of the registered capital of the distributing company for an uninterrupted period of 12 months (this holding period can be fulfilled subsequently). Both companies must have one of the forms listed in the Parent-Subsidiary Directive or be a cooperative (družstvo), the parent company may also be Czech trust fund, municipality, association of municipalities, regional municipality, the Czech Republic or a family foundation. *International* Inbound dividends derived by a Czech resident company constitute a separate tax base that is subject to a 15% CIT. Moreover, dividends received and beneficially owned by a Czech resident company from an EU resident subsidiary are exempt in the Czech Republic if the recipient holds at least 10% of the registered capital of the distributing company for an uninterrupted period of 12 months (this holding period can be fulfilled subsequently). Both companies must have a specified legal form, be EU residents and be subject to tax higher than 0%.	*National and international* Dividends received by Hungarian companies either from Hungarian or from foreign (both EU and non-EU) subsidiaries are exempt from CIT (except for dividends received from CFCs) based on Hungarian domestic law. *CFC rules* See Section 5 for the definition of CFC. *CFCs undistributed profits* In certain cases, the undistributed profit of a CFC deriving from "non-genuine arrangements", calculated under Hungarian rules (as if the CFC was a Hungarian tax resident) are considered as corporate tax base increasing items for the Hungarian CFC shareholder companies. Income from dividends received from a CFC is taxable in Hungary. **Impact EU GAAR** Hungary's withholding tax regime is not based on the Parent-Subsidiary Directive (PSD). According to domestic regulations Hungary does not levy withholding tax on dividends (and interest or royalties) paid to foreign entities irrespective of the location of the recipient or the degree of ownership.	*National and international* Dividends received by a resident company from: (i) a resident company are: - CIT exempt provided that certain conditions are met (i.e. at least 10% shareholding (as an owner), holding shares for an uninterrupted period of two years (the two years' holding period does not have to be met upfront); or - subject to 19% withholding CIT if these conditions are not met; (ii) a non-resident 'privileged' (e.g. EU, EEA, Swiss) company are: - CIT exempt provided that certain conditions are met (i.e. at least 10% (for Swiss company - at least 25%) shareholding (as an owner), holding shares for an uninterrupted period of two years (the two-year holding period does not have to be met upfront); the above exemption does not apply if dividend is received as a result of liquidation of the legal entity making the payments; or - CIT exempt in Poland on the basis of a tax treaty or subject to 19% CIT in Poland (with possibility to apply foreign tax credit) – if the above conditions are not met; iii) a non-resident 'unprivileged' company is: - CIT exempt in Poland on the basis of a tax treaty; or - subject to 19% CIT in Poland (with possibility to apply foreign tax credit).	**National and international** There is no full participation exemption in Slovakia. As from 1 January 2017, dividends paid out of profits generated in accounting period that started after 1 January 2017 to individuals are subject to Slovak income tax of 7% or 35% withholding tax depending on the residency of beneficiary. For further details see Section 3.1 below. Dividends paid to legal entities are not subject to income tax in Slovak Republic save for dividends distributed to the legal entities not having their registered seat in a country that is on the 'white list' (see below), which are subject to 35% withholding tax. For completeness, the taxation regime of dividends has changed quite significantly in the past with different intertemporal rules being applied. Tax regime of dividends from "old" profits should thus be assessed individually. **Impact EU GAAR** No changes are (currently) expected in Slovakian law as a result of the introduction of the EU GAAR, as there are already anti-abuse measures.

Czech Republic

Dividends received by a Czech resident company from its subsidiary resident in Norway, Iceland or Lichtenstein are tax exempt under similar conditions.

The exemption does not apply to dividends distributed from a Czech subsidiary in liquidation (for further conditions please see Section 3.1).

The exemption can also be applied, if a Czech resident company receives dividends from a company, that:

- is a tax resident of a state that has concluded a tax treaty with the Czech Republic;
- has a legal form similar to a Czech joint stock company or a limited liability company or cooperative; and of which the parent-subsidiary relationship is fulfilled (10% for at least 12 months); and
- the subsidiary is subject to CIT of 12% or more.

The exemption does not apply to dividends received by a Czech parent company from its subsidiary in liquidation (irrespective of the place of seat of the subsidiary).

The participation exemption also does not apply should either the holding company or the subsidiary (regardless of tax residency) be tax exempt from CIT or similar tax, or if they choose to be tax exempt or receive similar tax advantage.

Hungary

Similarly, the participation exemption for dividends received by Hungarian entities is not based on the PSD either, as Hungary exempts all dividends received except for dividends from CFCs.

Hungary so far did not specifically implement the PSD GAAR. However, Hungarian domestic legislation already contained GAARs and a PSD GAAR in the form of the CITA's 'dividend' definition which provides that the received dividend shall not be considered as dividend in case the contributing party deducts the respective amount from CIT as expenditure.

Poland

Foreign tax credit

Tax credit (both direct and underlying) in respect of foreign tax withheld on dividends may also be applicable, depending on a number of requirements under both domestic rules and treaties. Based on domestic rules:

- Direct, proportional ordinary tax credit may be used when income of a Polish tax resident is taxed abroad and that income is not tax exempt in Poland.
- Additional underlying, proportional tax credit is applicable whenever a company which is a Polish tax resident holds a minimum of 75% shares in an entity taxed on its worldwide income in any treaty country outside the EU / EEA / Switzerland for an uninterrupted period of two years and there is a tax treaty in place. In any case, the foreign tax credit cannot exceed the Polish CIT amount on the foreign dividends.

Impact EU GAAR

Poland has introduced regulations implementing PSD GAAR. Under the anti-abuse rule, the tax exemption for inbound dividends and the exemption from withholding tax on outbound dividends would not apply if dividends were connected with an agreement, a transaction, or a legal action or series of related legal actions, where the main or one of the main purposes was benefiting from these tax exemptions and such transactions or legal actions do not reflect the economic reality and are used with the sole intention of obtaining a tax benefit detrimental to the substance and main purpose of the PSD.

Slovakia

(Inbound) dividends received by a Slovak taxpayer are not exempt from CIT if they are a result of one or several measures that may not be considered as based on economic reality and their main (or significant) aim is to gain unjust advantage.

Czech Republic	Hungary	Poland	Slovakia
As of 1 July 2017, the participation exemption also does not apply to received dividends in case these were tax deductible at the level of the subsidiary. The rule should apply to dividends received as of 1 January 2017. **Impact EU and ATAD GAAR** As of 1 April 2019, the Czech Tax Procedural Code was amended to explicitly include a GAAR (there is no specific PSD GAAR). However, the Czech tax law was generally considered to already include sufficient GAAR implicitly and it is expected that there should be no material change to the current practice described below. In the Czech Tax Law the following general concepts of combating abuse of tax rules apply: (i) substance over form principle; and (ii) abuse of law concept. The substance over form principle was included in the tax law from 1992, i.e. for its entire modern existence. Pursuant to this rule, the Tax Authorities are entitled to assess tax based on factual merits of an operation (actual intentions of the parties) regardless of how the operation is organised from a formal legal perspective. The case law gradually limited the actual usage of this principle in favour of the abuse of law concept.		For the purpose of the above rule, it is considered that a transaction or a legal action does not reflect the economic reality if it is not performed for justified economic reasons. In particular, this concerns transferring the ownership of shares of a dividend-paying entity or in earning revenue by that entity which is then paid as a dividend. Starting from 2019 PSD GAAR has been extended to the interest and royalties outbound payments. The introduction of PSD GAAR may significantly increase the interest of the Polish tax authorities in the examination of applicability of the PSD tax exemption to outbound dividends and interest / royalties payments. Given the vague wording of the Polish provisions implementing PSD GAAR, it is expected that they may raise controversies and the specific prerequisites of applying the PSD GAAR will be shaped mainly by jurisprudence of Polish administrative courts.	

Czech Republic	Hungary	Poland	Slovakia
The abuse of law concept generally originates from Czech constitutional law and started to be adopted to the tax cases by the Czech Supreme Administrative Court from approx. 2004. The concept is applied on a strictly case-by-case basis and in general to operations without sound non-tax business motivations that are predominantly designed to derive tax benefits (including, as the case may be, reduction of WHT rate under DTT or tax exemption under the EU Parent-Subsidiary Directive). The application of the abuse of law concept is generally in line with the case law on abuse of law applied by the Court of Justice of the European Union.			

2.3 Gains on shares (participation exemption)

Czech Republic	Hungary	Poland	Slovakia
Capital gains are part of the general tax base and subject to CIT at the ordinary rate. Certain participations (especially investments held for trade) are also subject to fair market revaluation accounting. Revaluation gains on such participations are subject to tax unless the below exemption applies. Capital gains realised on sale of shares in domestic or foreign companies can be exempt from taxation if the seller is a beneficial owner of such income and has held at least 10% of the registered capital of the subsidiary for an uninterrupted period of 12 months (this holding period can be fulfilled subsequently). In respect of the sale of a Czech subsidiary, both companies must have one of the forms listed in the Parent-Subsidiary Directive or be a cooperative (družstvo), the parent company may also be a Czech trust fund, a municipality, an association of municipalities, regional municipality, the Czech Republic or a family foundation. In respect of the sale of an EU subsidiary, both companies must have a specified legal form, be EU residents and be subject to tax.	Gains realised on a shareholding in another (Hungarian or foreign) company are in principle subject to CIT (9%). However, capital gains on the sale and the transfer as in-kind contribution of the so called 'reported' participations are exempt from CIT, unless held in a CFC. (Note: capital losses on the reported participations will not be recognisable for tax purposes.) To qualify as reported participation, the participation should reach the following requirements: – the participation has been held for at least one year; and – has been reported to the tax authority within 75 days of acquisition. Foreign companies holding shares could also avail of the participation exemption on capital gains, if they transfer their place of effective management to Hungary and acquire Hungarian tax residence. In such case, the shares should be reported to the Hungarian tax authority within 75 days from the date of transfer. Other than the above, there is a general CIT exemption for gains on shares realised due to a – reduction of capital, or – a termination without legal succession, excluding all CFC subsidiaries irrespective whether the acquisition of the participation was reported or not.	Capital gains from the disposal of shares are subject to 19% CIT. Capital gains from the disposal of shares cannot be aggregated with other income (e.g. income from operating activity) and should be calculated separately within capital gains source. As of 2019, profits of Alternative Investments Companies (within the meaning of Directive 2011/61/EU of 8 June 2011 regarding managers of alternative investment funds) from the sale of shares, are CIT exempt if such companies had, directly before the disposal date, for a continuous period of two years, no less than 10% of shares in the capital of the company which shares are sold. The exemption does not apply to the disposal of shares in real estate companies. Polish law provides for the tax exemption on the sale of shares in the innovative companies as well, however there are numerous conditions for the application of the exemption.	Capital gains from the disposal of shares are subject to CIT at the ordinary rate (21%). As from 1 January 2018, a participation exemption has been introduced, under which capital gains of a Slovak legal entity or of a foreign legal entity having a permanent establishment in Slovakia from the disposal of shares are exempt from CIT (the exemption is not available to individuals) if i. The capital gains were generated after 24 months from acquisition of at least 10% direct share in the company in which the shares are being transferred (in any case starting from 1 January 2018); and ii. The taxpayer is performing in the Slovak territory material functions, manages and bears risks connected with ownership of the shares, while at the same time it has the necessary personnel and material equipment and calculates tax base from profits recorded in line with Slovak GAAP or IFRS (as adjusted for Slovak income tax purposes).

Czech Republic	Hungary	Poland	Slovakia
In respect of the sale of companies from other countries, the exemption applies as long as – the subsidiary is a tax resident of a state that has concluded a tax treaty with the Czech Republic; – the subsidiary has a legal form similar to a Czech joint stock company or a limited liability company or cooperative; – the parent-subsidiary relationship is fulfilled (10% for at least 12 months); and – the subsidiary is subject to CIT of at least 12%. The exemption does not apply to the gains on the sale of a Czech subsidiary in liquidation. Furthermore, the exemption does not apply to the gains on sale of shares that were purchased as a part of business enterprise. The participation exemption also does not apply, should either the holding company or the subsidiary be tax exempt from CIT or similar tax, if they choose to be tax exempt or receive similar tax advantage, or if they are subject to CIT at the rate of 0%.	This exemption is also available for reported participations even within one year. A deferral of CIT can also be sought on gains in the case of a preferential transformation or preferential exchange of shares under certain conditions, largely in line with the EC Merger Directive. Tax incentives via preferential transformations are applicable provided that the transactions had actual economic purposes. Note, that certain special vehicles such as Hungarian investment funds are exempt from tax, while Hungarian trusts could easily be exempted from tax for financial income such as capital gains.		

2.4 Losses on shares

Czech Republic	Hungary	Poland	Slovakia
Capital losses are generally not deductible. However, losses arising from the sale of shares held for trade (except for shares representing controlling or significant influence = holding of at least 20%) and losses resulting from revaluation of such investments to fair market value are deductible.	Capital losses on shares are generally deductible. However, the impairment, and losses and even currency exchange losses realised on participations in a CFC or on reported participations (see Section 2.3 above) are not deductible for CIT purposes.	Tax loss on disposal of shares within capital gains source cannot be offset with income from other source (e.g. income from operating activity). Tax loss from each source can be carried forward for five following tax years and settled against profit from the same source of revenue (up to 50% of tax loss from given year in one tax year). Starting from 2019 the tax losses of up to PLN 5 million can be set off against profits of one year, however, not deducted amount may be carried forward to the remaining five years, but it may not exceed 50% of the loss per year.	A capital loss incurred from the sale of shares is generally tax non-deductible. However, this would not apply if the shares are traded on the listed securities market and their purchase price is not higher and certain specific requirements are met. For registered security dealers a capital loss incurred from the sale of shares is always deductible.

2.5 Costs relating to the participation

Czech Republic	Hungary	Poland	Slovakia
Generally, costs related to the holding of any participation/share (e.g. interest on a loan, shareholder costs) are tax non-deductible. Interest on loans received as far as six months before an acquisition of a subsidiary are tax non-deductible, unless it is proved and specifically documented by a taxpayer that such loan is unrelated to the shareholding. Non-deductible indirect costs related to the participation are deemed equal to 5% of the actual received dividends; unless it is proved that the actual incurred indirect costs are lower. However, these provisions apply only in respect to participations in companies that fulfil Parent- Subsidiary conditions, i.e. EU, Iceland, Norway and Lichtenstein companies, and companies residing in countries with which the Czech Republic concluded a valid tax treaty, with the 10% ownership for 12 months criteria fulfilled, etc. (see Section 2.2).	Generally, all costs and expenses related to the business operations are tax deductible. Costs relating to the participation are generally deductible, but interest limitation rules apply to interest expenses (see Section 5). Cost relating to the purchase of participations, however, may become non-deductible if the acquisition is followed by the merger with the target (debt push-down) based on the general anti-avoidance rules (see Section 5). Deductibility of cost following a debt-push down should always be secured by a binding advance tax ruling.	Polish tax law does not provide for rules pertaining to costs relating to the participation. Thus, deductibility of such costs should be analysed on a case-by-case basis. Expenses incurred on the disposal of a capital asset are deductible for the seller. Interest on loans taken to acquire shares in the Target cannot be tax deductible after the merger of the acquiring company and the Target (and in case of some other forms of restructuring). Thus, as tax deductible costs cannot be regarded interest resulting from the debt push down transactions, which were applied during acquisition of the companies. Interest on profit participating loans is not tax deductible. See Section 5 for the thin-capitalisation rules.	The precondition for treating costs as tax deductible is that these were duly accounted for in the P/L account and were incurred to generate, maintain and ensure a taxable income. The Slovak Income Tax Act treats those expenses incurred to generate income which are not included in the tax base (e.g. dividends) as non-deductible. Therefore, as the holding of shares in a company generates primarily dividend income that is not included in the tax base, it may lead to a conclusion that the interest on loans used by the parent company for the acquisition of a subsidiary may be considered non-deductible. On the other hand, it may be argued that the entity may potentially realise a taxable capital gain on the sale of the shares. Thus, the tax deductibility must be considered on the individual basis.

2.6 Currency exchange results

Czech Republic	Hungary	Poland	Slovakia
Both realised and unrealised currency exchange results are generally accounted for in the profit-loss account and are taxable or tax deductible.	Generally currency exchange losses/ gains are recognised for CIT purposes. In addition, unrealised exchange fluctuation is also subject to taxation. It is possible, however, to defer the CIT effects of unrealised currency exchange results of fixed financial assets and long-term liabilities until the currency exchange result is actually realised, provided that the transactions are not hedged. The deferral of the tax effects is the taxpayer's choice. Currency exchange losses realised on 'reported' participations (see Section 2.3 above) and CFCs are not deductible for CIT purposes.	Positive currency exchange differences constitute taxable revenues and negative currency exchange differences constitute tax deductible costs. Taxpayers are allowed to choose the method of settlement of currency exchange differences for CIT purposes. They can opt for settlement according to either the rules provided in accountancy regulations or separate rules provided in the CIT Act.	The taxpayers may decide that 'unrealised' currency exchange differences will be included in the tax base in the tax period in which the receivable is collected or the payment is performed. From 1 January 2014 no prior announcement to the relevant tax authorities is required; the taxpayer will only be required to declare it in the income tax return. The taxation of 'realised' currency exchange losses / gains are driven by accounting.

2.7 Tax rulings

Czech Republic

There is no general advance ruling system in the Czech Republic.

The tax authorities may issue a binding ruling on a taxpayer's request regarding the possibility to utilise the tax loss after the substantial change in the structure of shareholders (see Section 2.8).

Moreover, a taxpayer may request the tax authority for a binding assessment on whether prices agreed upon with related parties are at arm's length. The whole group structure must be disclosed.

Additional areas where binding tax rulings can be issued are technical appreciation of assets, R&D deduction and two other areas relating to individuals and non-profit organisations. In addition, the binding ruling can be issued on whether a taxable supply, in terms of a correct classification, is subject to general or reduced tax rate or reverse charge mechanism for the VAT purposes.

A fee of CZK 10,000 will be charged for the filing of a request. None of those are frequently used because of practical problems.

There is also a possibility to apply for an opinion of the General Finance Directorate on interpretative issues, but such opinions are not legally binding.

Hungary

Binding tax rulings may be requested by taxpayers and foreign entities in relation to any type of tax provided the ruling relates to the tax consequences of a future transaction, and a detailed description is provided. Binding tax rulings may be obtained also for transactions not qualifying as future transactions; this ruling would be available in connection with CIT, small enterprises' tax, local business tax and personal income tax issues. The Ministry of Finance must generally issue a ruling within 90 days, which can be extended with 60 days. If the taxpayer requests for an accelerated procedure, the ruling is issued within 60 days, which may be extended with 30 days. The fee for the ruling is HUF 5 million (approx. EUR 14,300) in an ordinary procedure, and HUF 8 million (approx. EUR 22,900) in an accelerated procedure.

The ruling issued is effective for the five following tax years, or until the legislation relevant for the transaction changes. The taxpayer may request the extension of the ruling for a further two tax years.

Related parties may request the tax authority to issue an advance ruling (APA) on the transfer pricing aspects of a future transaction.

The National Tax Authority must issue a ruling within 120 days. This period may be extended twice, each time for a further 60 days.

Poland

The tax authorities may issue a ruling at the request of a current or future taxpayer. The request sets out the facts, the question and the taxpayer's opinion on the case.

There are few types of tax rulings:
- general tax rulings, issued by the Minister of Finance, which are aimed to unify the interpretation of tax law application,
- individual tax rulings, issued on individual request in a particular case,
- GAAR rulings,
- advanced pricing arrangements,
- WHT opinions,
- Binding VAT Rate Statements,
- agreements on cooperation in the field of taxes with the tax authority (including tax agreements on specific issues).

A positive individual tax ruling issued by the Head of the National Treasury Information (HNTI) contains confirmation of the taxpayer's position via either the HNTI's opinion on the applicable tax treatment together with supporting argumentation, or just a pure confirmation of the applicant's standpoint.

If a ruling is negative, it is possible to appeal and challenge it before tax courts. A tax ruling should generally be issued by the HNTI within three months of filing the application (this period has been extended to 6 months for the duration of the epidemic state in Poland caused by the COVID Pandemic). In more complicated cases, the HNTI is entitled to extend the deadline.

Slovakia

The Slovak tax authorities are entitled to issue a binding ruling on several tax related topics if requested by a taxpayer.

The scope of topics is, at the moment, rather limited. Taxpayers may apply for a binding tax ruling in relation to the following:

Income tax:
(i) The source of income of non-Slovak tax residents;
(ii) the sale and purchase of an enterprise or its part;
(iii) adjustment of tax base by sum of unpaid receivable or its part after maturity date;
(iv) tax deductibility of expenses;
(v) deduction of tax loss;
(vi) withholding taxation;
(vii) transfer pricing method (the ruling could be issued for at most five tax periods and, if requested, may be extended by five more tax periods); and
(viii) permanent establishment tax base determination method (the method should be applied at least one year and cannot be changed during the respective tax period).

VAT:
(i) The existence of obligation to pay VAT;
(ii) VAT rates for goods;
(iii) which person is liable to pay VAT: and
(iv) fulfilment of conditions for existence of permanent establishment under Slovak Act on VAT.

Czech Republic	Hungary	Poland	Slovakia
	The advance ruling is binding for all tax authorities, unless relevant circumstances change. The advance ruling on transfer pricing is valid for a pre-determined period of three to five years. Upon request, this period can be extended once for a further three years.	In principle, acting in line with the tax ruling cannot be held against the applicant. This implies that as long as the applicant acts in line with the tax ruling: – no tax penal proceedings will be initiated against persons responsible for tax matters; – no penalty interest will be charged if any tax is due; – applicant will not have to pay any tax arrears that have arisen as a result of acting in line with the tax ruling. This tax exemption is only applicable if the transaction or other event has been performed after the receipt of the ruling; that is why receiving the ruling before the transaction is so crucial. Generally speaking the protection lasts until the tax ruling is changed or dismissed by the tax authorities (e.g. if they find it incorrect or the law changes). Detailed rules are provided in this respect. An appeal procedure is available. Similar protection applies in case of general tax rulings, however it is not possible to challenge them to the tax court. The protection resulting from the tax ruling does not apply inter alia in case the facts or the future event described in the tax ruling is a part of activities being subject to decision issued under the GAAR regulations.	The tax ruling would be effective for one or several particular transaction(s). The tax rulings (with the exemption of tax ruling regarding the permanent establishment tax base determination method) will be subject to a fee calculated from the value of contemplated transaction and ranging from EUR 2,000 to EUR 30,000.

Czech Republic	Hungary	Poland	Slovakia
		Moreover, tax authority may refuse to issue the tax ruling e.g. if there is a justified suspicion that facts or the future event described in the tax ruling may be subject to decision issued under the GAAR regulations or there is an general tax ruling issued by Ministry of Finance in the same legal regime. There is also an advance ruling system applicable to transfer pricing arrangements (APA). Additionally, in order to secure the tax payer's position against application of the general anti-abuse clause (GAAR) the taxpayer may apply to the Head of National Treasury Administration for the so-called protective opinion disallowing application of the GAAR. Proceedings aimed to issue the GAAR opinion of this kind are conducted under special rules, and the applicant has to pay a fee of PLN 20,000 (approx. EUR 5,000). The GAAR opinion should be issued within six months of the application filing date. A refusal to issue an opinion is appealable to the competent administrative courts. **Binding VAT Rate Statements** Binding VAT Rate Statement is a decision issued by the National Tax Administration. It guarantees to taxpayers that while providing their services or selling goods they will apply a proper VAT rate.	

Czech Republic	Hungary	Poland	Slovakia
		Moreover, Binding VAT Rate Statement provides the taxpayers with the possibility to protect themselves during a tax control if the tax authorities would question the VAT rate applied to a given good or service. Therefore, tax authorities will have to follow Binding VAT Rate Statements' guidelines. The changes officially entered into force on 1 November 2019, but the new regulations are effective as from 1 July 2020. As of 1 January 2021 there are new provisions under which Binding VAT Rate Statements are valid for the 5 years from the date of their issue unless VAT regulations change. **Program for cooperation between taxpayers and tax administration** From 1 July 2020, the largest taxpayers can apply to the new program of cooperation with tax authorities. To be able to participate in the program, it is required to obtain a positive assessment from a preliminary tax audit and to sign an appropriate agreement. Cooperation agreements are concluded between the taxpayer and the Head of National Revenue Administration at the taxpayer's request. Such request may only be filed by a CIT taxpayer whose income indicated in the tax return for the previous tax year exceeded the PLN equivalent of EUR 50,000,000.	

Czech Republic	Hungary	Poland	Slovakia
		A taxpayer must also receive a positive opinion from the preliminary tax audit conducted by the tax authorities. The final decision on concluding the contract is made by the Head of National Revenue Administration. Signing of the agreement results with accession to the Cooperation Program and commencement of in-depth cooperation between the taxpayer and tax authorities. By concluding this agreement the taxpayer undertakes i.a. to disclose to tax authorities all tax-relevant information, inform about identified tax risks and answers to queries made by tax authorities. Benefits of concluding a cooperation agreement include i.a. no penalty interest resulting from mistakes in settlements made by a taxpayer, making advance payments in simplified form on the basis of projected income, no requirements to report other than cross-border MDR schemes. A taxpayer being a party to the cooperation agreement may also conclude specific tax agreements with the Head of National Revenue Administration, including, inter alia, interpretations of tax law, transfer pricing, GAAR. According to the last publicly available information, 15 entities have applied to the Cooperation Program so far (for 20 available places). The Ministry of Finance has not confirmed a conclusion of the agreement by any of the aforementioned entities yet.	

2.8 Loss carry over rules

Czech Republic	Hungary	Poland	Slovakia
Carry back Losses up to CZK 30 million (decrease of tax base) may generally be carried back for 2 previous tax periods. Loss carry back only applies to losses for tax periods ending after June 2020. **Carry forward** Losses may be carried forward for five tax periods. However, special limitations apply in the case of a substantial change in a shareholding structure (a substantial change is any change which affects more than 25% of the registered share capital or voting rights or results in a substantial influence of a shareholder), de/mergers and transfers of enterprises. Losses can be transferred in mergers and transfers of enterprises if EU Merger Directive conditions are fulfilled.	**Carry back** In general, no carry back is permitted in Hungary. However, taxpayers operating in the agricultural sector may account deferred losses by self-revision or by correcting the amount of tax paid in the previous two tax years by reducing the pre-tax profit of the preceding two tax years by the amount of the deferred loss; losses carried back per year cannot exceed the 30% of the relevant tax year's pretax profit, however, if the taxpayer fails to exercise this option, or transfers only part of the loss to the debit of the previous two tax years, the general loss carry forward rules may be applied to the remainder. **Carry forward** Generally, losses may be carried forward for a maximum of five subsequent years. However, tax losses from the tax years before 2015 may be carried forward and utilised until 2030. When accrued losses are deducted, losses carried forward from earlier years must be written off first. Carried forward losses are deductible up to 50% of the relevant year's CIT base (as calculated without the losses carried forward) per year.	**Carry back** Loss carry back is not permitted in Poland. **Carry forward** Losses may be carried forward for a maximum of five subsequent years, but not more than 50% of each year's loss may be utilised in a single subsequent tax year. However, tax loss from one source of revenue cannot be offset with income from other source of revenue. Starting from 2019 the tax losses of up to PLN 5 million can be set off against profits of one year, however, not deducted amount may be carried forward to the remaining five years, but it may not exceed 50% of the loss per year. From 1 January 2021, regulations limiting the possibility of settling losses resulting from restructuring activities came into force. The amended regulations are intended to prevent the transfer of profitable operations to companies with a tax loss.	**Carry back** Loss carry back is not permitted in Slovakia. **Carry forward** As of 1 January 2020, tax losses may be carried forward for a maximum of five years, with an annual limit of deduction of 50 % for relevant tax period. If the company started to deduct the tax losses and is dissolved without being liquidated, its tax losses can be deducted by its legal successor, unless the sole purpose of such dissolution is avoiding taxation. Micro-taxpayers can claim tax loss carry-forward up to the full amount of the reported tax base.

Czech Republic	Hungary	Poland	Slovakia
	In the case of corporate restructurings and acquisitions, losses can be carried forward by the successor company only if certain conditions are fulfilled with respect to carrying on and generating income from the business activity of the acquired or successor company. Hungary introduced group taxation for CIT purposes as of the beginning of 2019, under which group entities are entitled to use "group losses" subject to certain limitations (for details please see Section 2.9 below).	As a result of new provisions, when determining the taxable income, the losses of a taxpayer will not be taken into account if the taxpayer took over another entity or acquired (including non-cash contribution) the enterprise or an organized part of the enterprise, or received a cash contribution for which they acquired the enterprise or an organized part of the enterprise and as a result: – the object of the primary business activity actually conducted by the taxpayer after such takeover or acquisition, in whole or in part, will be different in full or in part than before such takeover or acquisition, or – at least 25% of the taxpayer's shares are held by an entity or entities which, as at the end of the tax year in which the taxpayer incurred such loss, did not have such rights.	

2.9 Group taxation for CIT purposes

Czech Republic	Hungary	Poland	Slovakia
There is no group taxation regime for CIT purposes.	As of 1 January 2019 Hungary introduced the group taxation for CIT purposes. Due to this opportunity, the domestic transfer pricing will practically cease to exist for the transactions between the group members. This means that no transfer pricing documentation has to be prepared and no transfer pricing adjustment has to be made with regarding to transactions between parties joining the tax group. The group is obligated to comply with the general transfer pricing regulation towards related companies outside the group. The other advantage concerning group taxation is connected to the tax loss carry forward. Losses incurred after joining the tax group can be utilized on a group level. However, certain limitations apply: losses can only be used up to the 50% of the amount of individual member's positive tax bases and also up to 50% of the aggregated group tax base. In addition, certain tax allowances of group members could be used by other group members.	A 'tax capital group' (tax consolidated group) may be formed for CIT purposes in Poland. Taxable income for the group is calculated by combining the income and losses of all the companies. A tax consolidated group formed and registered with the relevant tax authorities is treated as a separate taxpayer for CIT purposes. The basic requirements for obtaining the status of a tax capital group are the following: – A tax capital group may be formed only by limited liability or joint-stock companies based in Poland, provided that average share capital is not lower than PLN 500,000. – The holding company should hold at least 75% of the shares in the other group companies. – Subsidiary companies cannot be shareholders in the holding company or other subsidiary companies in the group. – None of the members of the group can have tax liabilities towards the Treasury (e.g. VAT, CIT). – The holding company and the subsidiaries have agreed to establish the capital group for at least three tax years by means of a notarial deed. The tax agreement must be filed with the tax office. As of 1 January 2021, tax capital groups are required to prepare and publish reports on the implementation of their tax strategy (as explained in Section 2.1.).	There is no group taxation regime for CIT purposes.

Czech Republic	Hungary	Poland	Slovakia
	According to the new rules, group taxation can be opted for by at least two entities tax resident in Hungary if (i) one of the entities directly or indirectly holds at least 75% of the voting rights in the other entity; or (ii) the same person directly or indirectly holds at least 75% of the voting rights in each entity; the balance sheet date, and applied accounting standards (either Hungarian GAAP or IFRS) of the joining entities is identical.	After the creation of the tax consolidated group, the companies forming this group should additionally satisfy the following requirements: – None of the companies included in the group can singularly benefit from tax exemptions (excluding VAT exemptions). – The annual level of the group's profitability cannot be less than 2%. – Companies in the group cannot maintain relationships with companies from outside the group resulting in a breach of transfer pricing restrictions. If all the above-mentioned restrictions are met the tax capital group may take advantage of the benefit i.e. the losses of some of the members of the tax capital group can be set off against the taxable income of its other members. Tax capital group can lose the status of taxpayer retroactively (from the date of registration as a tax group) in case of breach of certain conditions. In such a case, companies forming tax capital group are obliged to reconcile CIT as independent taxpayers retroactively for past years. Tax capital group members will be obliged to set intra-group transaction terms at arm's length. The condition for TCG to achieve a profitability rate of at least 2% is considered to be met in the tax year that will end no later than 31 December 2021 if a TCG would experience negative economic consequences due to COVID-19 pandemic in 2021.	

3. Withholding taxes payable by the holding company

3.1 Withholding tax on dividends paid by the holding company

Czech Republic

Dividend payments from resident companies to other resident companies are subject to a 15% final withholding tax. Double taxation is avoided by not including dividends, which were subject to a 15% withholding tax in the general tax base of receiving companies.

A domestic distribution of dividends can be exempt from taxation if the recipient – beneficial owner – holds at least 10% of the registered capital of the distributing company for an uninterrupted period of 12 months (this holding period can be fulfilled subsequently). Both companies must have one of the forms listed in the Parent-Subsidiary Directive or be a cooperative (družstvo), the parent company may also be a Czech trust fund, a municipality, an association of municipalities, regional municipality, the Czech Republic or a family foundation.

The exemption does not apply to dividends distributed from a Czech subsidiary in liquidation, unless distributed by such a subsidiary to EU resident parent company.

Dividends paid to a non-EU or non-EEA country with whom the Czech Republic does not have a tax treaty in place (DTT or TIEA (bilateral or multilateral)), or in cases that the tax residency is not ascertained, are subject to a withholding tax of 35%.

Hungary

Hungary does not impose withholding taxes on dividend distributions (even to tax haven countries) unless the recipient is a private individual.

Dividend distributions to individuals are subject to 15% dividend withholding tax, unless limited by a tax treaty to a lower rate. In addition, Hungarian tax residents are also subject to a 15.5% social contribution tax capped at HUF 622,728 (approx. EUR 1,774) / year may apply.

Impact EU GAAR

See our comments in Section 2.2 above.

Impact ATAD – GAAR

Hungary GAAR was slightly amended as of 2019 to fully correspond to the ATAD rules (actions with the main purpose or one of the main purposes of obtaining a tax advantage are ignored and tax benefits are refused in such cases).

Poland

Dividends paid by a resident company to:

(i) non-resident 'privileged' (e.g. EU, EEA, Swiss) parent company are:
  - withholding tax exempt provided that certain conditions are met (i.e. at least 10% (for Swiss company – at least 25%) shareholding (as an owner), holding shares for an uninterrupted period of two years – this condition does not have to be met upfront);
  - taxed according to relevant tax treaty – if these conditions are not met;

(ii) non-resident 'unprivileged' parent company is taxed according to relevant tax treaty or 19% withholding tax if no tax treaty can be applied.

Since January 1, 2019 new regulations regarding withholding tax collection have been introduced into Polish tax law.

The application of the new WHT rules is divided into 2 steps.

WHT regime from 1 January 2019 to 31 December 2021

WHT remitters, irrespective of a payment amount, in order to apply a reduced WHT rate, exemption or not to withhold WHT, are obliged to conduct due diligence on whether conditions to apply an above WHT treatment are satisfied (in particular the beneficial ownership condition).

Slovakia

Profits generated in an accounting period that started after 1 January 2017 are subject to:

– 7% withholding tax, if the dividends are distributed by a Slovak company to a Slovak or foreign resident individual (unless a double-tax treaty stipulates otherwise), or
– 35% withholding tax, if the dividends are distributed to individuals or legal entities not having permanent residence or registered seat in 'white-list' jurisdiction, i.e. countries with which the Slovak Republic does not have any tax treaty.

Save for dividends paid out to legal entities from 'non-white-list' jurisdictions referred to above, dividends paid to legal entities are not subject to income tax in the Slovak Republic.

Impact EU GAAR

Currently no EU GAAR for CIT purposes with respect to outbound dividends is proposed.

Impact ATAD – GAAR

No specific principal purpose test under ATAD has been implemented yet. However, as from 1 January 2018 a new wording of GAAR applies (see further section 5 below).

Czech Republic	Hungary	Poland	Slovakia
Dividends paid to other non-resident companies are subject to a withholding tax of 15%, which may be reduced by virtue of tax treaties or Parent-Subsidiary exemptions (under same conditions as mentioned above). The exemptions also do not apply, should either the holding company or the subsidiary (regardless of tax residency) be tax exempt from CIT or similar tax, if they choose to be tax exempt or receive similar tax advantage, or if they are subject to CIT at the rate of 0%. **Liquidation / Share repurchase** Liquidation share proceeds exceeding the paid-in capital (or the acquisition costs of the share) are subject to a withholding tax of 15%. This rate can be reduced by virtue of most tax treaties. Redemption / repurchase of shares is generally not considered a partial liquidation. **Impact EU and ATAD GAAR** See Section 2.2.		In general, standard of the due diligence is higher in the case of related parties, due to the fact that it is assumed that the tax remitter should be able to obtain reliable information from the related party of the given payment / transaction. If however payments made to a particular entity (sum of payments subject to WHT), exceed PLN 2 million (approx. EUR 0.5 million) annually and there is no double tax treaty in force between Poland and the entity's state of residence, which contain an information exchange clause, a remitter will be obliged to withhold WHT in a standard rate. In June 2019 Polish Ministry of Finance issued draft explanatory notes to the new WHT provisions. The aim of the explanatory notes is to clarify the principles of collection of WHT, with particular consideration of the new provisions introduced to the CIT Act as of 1 January 2019. The explanatory notes' wording is not final and may be subject to future amendments. In general, the explanatory notes provide for the same protection to the taxpayer/tax remitter as the tax ruling received.	

Czech Republic	Hungary	Poland	Slovakia
		WHT regime starting from 1 January 2022 *Payments below PLN 2 million* WHT remitters, irrespective of a payment amount, in order to apply a reduced WHT rate, exemption or not to withhold WHT, are obliged to conduct due diligence on whether conditions to apply an above WHT treatment are satisfied (in particular the beneficial ownership condition). *Payments above PLN 2 million* Generally, starting from 1 January 2022 (the entry into force of these provisions has been postponed a few times: to 30 June 2019, 31 December 2019, 30 June 2020, 31 December 2020, 30 June 2021 and, most recently to 31 December 2021) a tax remitter will be required to calculate, collect and pay WHT applying standard rates specified in the CIT Act. WHT is to be collected based on this rule from the excess of payments over PLN 2 million. There will be two exceptions to the general rule: i. the first is submitting the relevant statement by the tax remitter; ii. the second is application for WHT opinion of the tax authorities. In order to apply reduced WHT rate or WHT exemption, the tax remitter will submit a statement that: i. tax remitter obtained required documents, including: - certificate of residence obtained from taxpayer; - written statement from taxpayer on meeting the certain conditions;	

Czech Republic	Hungary	Poland	Slovakia
		ii. after the verification, tax remitter has no knowledge justifying the assumption that there are circumstances excluding the possibility of applying the preferable tax conditions (tax exemption, reduced tax rate etc.). At the request of the tax remitter or the taxpayer, the tax authorities will issue an opinion confirming WHT exemption. Obtaining an opinion allows application of preferential rules for payment during its term of validity. The tax authority have 6 months to examine the matter and issue an appropriate opinion. The fee for issuing such opinion amounts to PLN 2,000. In the application, it is necessary to indicate that the conditions for using the abovementioned exemption (among others those referring to beneficial ownership and actual business activity) are met. The opinion will be valid for 36 months from its issue, unless the circumstances on the basis of which it was issued change. The above mentioned changes concerns not only dividends but also interest, royalties and other payments which are subject to WHT in Poland.	

Czech Republic	Hungary	Poland	Slovakia
		If the taxpayer / tax remitter fails to meet the conditions for application of the reduced WHT rate or WHT exemption, the WHT will be collected at the statutory WHT rates. Upon the request, the tax authorities may reimburse WHT or the difference between WHT collected and the reduced WHT resulting from the CIT Act or the relevant tax treaty. The tax refund request is made by taxpayer or tax remitter (if it has paid WHT from its own funds and has borne the economic burden of WHT). It is necessary to attach detailed documentation to the request confirming that an exemption or reduced rate apply. As a general rule, the tax refund should take place within 6 months. It has been already announced that the above provisions will be modified. However no details are available yet. **Liquidation / Share repurchase** Participation exemption regime does not apply to income earned on redemption of shares or liquidation proceeds.	

Czech Republic	Hungary	Poland	Slovakia
		Although incomes from redemption of shares and liquidation proceeds are no longer exempt based on the CIT Act, they still may be withholding tax exempt in Poland based on the double tax treaty concluded by Poland or may be subject to withholding tax at lower rate determined in the given tax treaty. The income of a Polish tax resident company from disposal of shares for the purpose of redemption (voluntary redemption) is subject to 19% CIT within capital gains sources and cannot be aggregated with other income (e.g. income from operating activity). **Impact EU GAAR** According to the current definition, beneficial owner is an entity that meets jointly all of the following conditions: i. it receives a payment for its own benefit, takes individual decisions on its use and bears economic risk associated with the loss of this amount or its part; ii. it is not an intermediary, representative, trustee or other entity legally or factually obliged to transfer all or part of the receivables to another entity; iii. it conducts an actual economic activity in the country of its register office, if the receivables are obtained in connection with economic activity.	

Czech Republic	Hungary	Poland	Slovakia
		In assessing whether an entity pursues actual economic activity, the following circumstances are taken into account (in particular): i. registration of an entity involves existence of an enterprise as part of which the company actually carries out business activities, including in particular whether this company has its premises, qualified personnel and equipment used in pursued economic activities; ii. the entity does not create a structure functioning in isolation from economic reasons; iii. there is adequacy between the scope of activity carried out by an entity and the premises, personnel or equipment actually possessed by this entity; iv. the arrangements concluded reflect the economic reality, have economic justification and are not manifestly contrary with the general economic interests of that company; v. the entity independently performs its basic economic functions using its own resources, including the executives present on site. Although it does not directly result from the CIT Act, the Polish tax authorities claim, that the beneficial ownership condition should be also met in the case of WHT exemption (or reduced WHT rate) on the dividend payments (i.e. not only in the case of interest and royalties payments).	

Czech Republic	Hungary	Poland	Slovakia
		We are however aware of some Polish lower administrative courts' judgments which state that tax remitters are not obliged to verify beneficial ownership status in connection with dividend payments. Supreme Administrative Court has not issued any judgment yet in this respect. Beneficial ownership clause is included in many tax treaties concluded by Poland (for example in tax treaty with the Netherlands, with Sweden). Therefore, in order to apply withholding tax rate / exemption arising from DTT, recipient should be beneficial owner or received dividends. In September 2020, the Polish Ministry of Finance announced that the beneficial owner definition will be slightly modified and some other changes will be introduced to the Polish WHT regulations – however no official details are available yet.	

3.2 Withholding tax on interest paid by the holding company

Czech Republic	Hungary	Poland	Slovakia
Interest paid to a resident of a non-EU or non-EEA country with whom the Czech Republic does not have a tax treaty in place (DTT or TIEA (bilateral or multilateral)), or in cases that the tax residency is not ascertained, is subject to a withholding tax of 35%. Withholding tax of 15% applies to interest paid to other foreign lenders. This rate can be reduced by virtue of most tax treaties. The EU Interest and Royalties Directive is implemented in the Czech law. The interest payments to (i) EU, Swiss, Norwegian or Icelandic (effective from 1 May 2004) and (ii) Lichtenstein (effective from 1 January 2016) recipients are exempt from withholding tax if the Interest and Royalties Directive criteria are met. The exemption can be applied provided that the recipient (beneficial owner of interest payment) and the interest payer are directly related (direct shareholding or voting power of at least 25%; if a person meets the criteria in respect to more entities, all these entities are considered directly related) for an uninterrupted period of at least 24 months (can be fulfilled subsequently) and only if the interest payment (income) is not attributable to a permanent establishment located (i) in the Czech Republic or (ii) in a country other than EU country, EEA country or Switzerland.	Based on domestic tax law (which is applicable irrespective of tax treaties or the EU Interest and Royalties Directive) there is no withholding tax on interest paid to a corporate entity. **Impact ATAD – GAAR** The ATAD GAAR should not have an impact as no withholding tax is levied on interest paid to a corporate entity.	There is a 20% withholding tax on interest paid to foreign lenders that may be reduced by virtue of tax treaties. The reduced withholding tax rate is applicable provided that a certificate of tax residency of the foreign beneficial owner is provided. Since January 1, 2019 new regulations regarding withholding tax collection have been introduced into Polish tax law. The new conditions for application of the WHT exemption / reduced WHT rate on interest payments have been described in Section 3.1. Poland implemented the Interest and Royalties Directive. Therefore, interest payments between parent and subsidiary, subsidiary and parent and between direct sister companies (in all cases a minimum 25% interest and two-year holding period is required) are free from withholding tax, assuming that the receiving company is beneficial owner of the interest. If the interest rate on a loan is not at arm's length, the excess payment may potentially be challenged as not deductible under general rules. However, such payment may not be automatically reclassified as a dividend payment.	There is a 19% withholding tax on loan interest paid to foreign resident entities, provided they have no permanent establishment deemed to be created in Slovakia to which such interest is attributable. As from 1 March 2014, if the loan interest is paid to residents having the registered seat or permanent residency in a country that is not on the White List maintained and published online by the Slovak Ministry of Finances, a 35% rate applies. Countries with which the Slovak Republic does not have any tax treaty signed are not on the White List. The White List should basically contain the countries with which the Slovak Republic has signed the DTT. However, the majority of tax treaties signed by the Slovak Republic decreases or eliminates the withholding tax on interest. Based on the provisions implementing the EU Interest and Royalties Directive, the loan interest payments to a related party seated in another EU member state (or other state which implemented measures similar to this directive, e.g. Switzerland) are exempt from withholding tax if the shareholding in the Slovak subsidiary of at least 25% in the share capital is held for a holding period of no shorter than two years. **Impact ATAD – GAAR** See section 5 below.

Czech Republic	Hungary	Poland	Slovakia
Prior decision of the tax authorities is necessary to apply the exemption. **Impact ATAD – GAAR** Same as EU GAAR, see Section 2.2.		Under Polish CIT regulations transposing the EU Interest and Royalties Directive regime and under most treaties the interest that is paid to a related party which exceeds the arm's length level may not benefit from the lower withholding tax rates (applicable under the EU Interest and Royalties Directive regime or relevant treaties) for the part exceeding the market level. Despite the introduction of CIT taxation of limited partnerships in 2021, it is not possible to apply the WHT exemption on interest payments made by limited partnerships. CIT taxation of limited partnerships has been described in Section 2.1. **Impact ATAD – GAAR** In order to benefit from withholding tax exemption, recipient of interest shall be beneficial owner of received interest. A new definition of the beneficial owner has been described in Section 3.1. Beneficial ownership clause is also included in many tax treaties concluded by Poland (for example in tax treaty with the Netherlands, with Sweden). Provisions implementing the ATAD Directive were introduced to Polish tax law.	

3.3 Withholding tax on royalties paid by the holding company

Czech Republic	Hungary	Poland	Slovakia
Payments for the use or the right to use, of industrial rights, software, know-how and copyrights paid to a resident of a non-EU or non-EEA country with whom the Czech Republic does not have a tax treaty in place (DTT or TIEA (bilateral or multilateral)), or in cases that the tax residency is not ascertained, are subject to a withholding tax of 35%. Withholding tax of 15% applies to the above types of income paid to other non-resident recipients. This tax rate can be reduced by virtue of the relevant tax treaty. The EU Interest and Royalties Directive is implemented in the Czech law: The royalty payments to EU, Swiss, Norwegian or Icelandic (effective from 1 January 2011) and (ii) Lichtenstein (effective from 1 January 2016) recipients are exempt from withholding tax if the EU Interest and Royalties Directive criteria are met. The exemption can be applied provided that the recipient (beneficial owner of royalty payment) and the payer are directly related (direct shareholding or voting power of at least 25%; if a person meets the criteria in respect to more entities, all these entities are considered directly related) for 24 months (can be fulfilled subsequently) and only if the royalty payment (income) is not attributable to a permanent establishment located (i) in the Czech Republic or (ii) in a country other than EU country, EEA country or Switzerland.	Based on domestic tax law (which is applicable irrespective of tax treaties or the EU Interest and Royalties Directive) there is no withholding tax on royalties paid to a corporate entity. **Impact ATAD – GAAR** The ATAD GAAR should not have an impact as no withholding tax is levied on royalties paid to a corporate entity.	There is a 20% withholding tax on royalties paid to foreign recipients that may be reduced by virtue of tax treaties. In order to obtain a reduction of the withholding rate, a certificate of tax residence is required. Since January 1, 2019 new regulations regarding withholding tax collection have been introduced into Polish tax law. The new conditions for application of the WHT exemption/ reduced WHT rate on royalties payments have been described in Section 3.1. See Section 3.2 for the transposition of the Interest and Royalties Directive. The rules set out in Section 3.2 apply to the payment of royalties (subject to the new conditions for application of the WHT exemption / reduced WHT rates applicable as of 1 January 2019 – as described in Section 3.1). If the foreign company is not covered by a tax treaty and it provides certain intangible services, e.g. advisory, accounting, legal, marketing, management of data processing and HR (other than qualified as royalties) to a Polish resident company, a 20% domestic withholding tax rate is applicable as well. In the case of treaty protected service providers, income from the provision of such services falls under business profits and thus may not be taxed in Poland unless the service provider generates its income through a Polish permanent establishment.	There is a 19% withholding tax on payments for intellectual property rights (industrial rights, software, copyrights) to non-residents unless the respective tax treaty stipulates otherwise. As from1 March 2014, a 35% rate has applied to residents of countries that are not on the White List. For further details see Section 3.2 above. Based on the provisions implementing the EU Interest and Royalties Directive, the royalty payments to a related party seated in another EU Member State (or other state which implemented measures similar to this directive, e.g. Switzerland) are exempt from withholding tax if the shareholding in the Slovak subsidiary of at least 25% in the share capital is held for a holding period of no shorter than two years. **Impact ATAD – GAAR** See section 5 below.

Czech Republic	Hungary	Poland	Slovakia
Prior decision of the tax authorities is necessary to apply the exemption. **Impact ATAD – GAAR** See Section 2.2.		Nevertheless, the Polish service recipient should be provided with a tax certificate of the foreign service provider in order not to withhold 20% withholding tax under the tax treaty regime. As of 2021, limited partnerships paying the royalties abroad cannot apply the WHT exemption on such payments. **Impact ATAD – GAAR** In order to benefit from withholding tax exemption, recipient of royalties shall be beneficial owner of received interest. A new definition of the beneficial owner has been described in Section 3.1. Beneficial ownership clause is also included in many tax treaties concluded by Poland (for example in tax treaty with the Netherlands, with Germany). Provisions implementing the ATAD Directive were introduced to Polish tax law.	

4. Non-resident capital gains taxation – domestic legislation and tax treaties

Czech Republic	Hungary	Poland	Slovakia
Capital gains arising from the sale of a shareholding interest in a Czech company by a Czech non-resident company are treated as Czech-source income and subject to the ordinary CIT rate in the Czech Republic, unless a tax treaty provides otherwise, which is, however, mostly the case. Gains on the sale of shares in a non-Czech company realised by a Czech non-resident would be regarded as Czech source income provided that the buyer of the shares is a Czech resident or a Czech permanent establishment of a Czech non-resident and the shares are considered as tradable securities according to Czech tax law. In such case the capital gain would be subject to the ordinary CIT rate in the Czech Republic, unless a tax treaty provides otherwise, which is, however, mostly the case.	Capital gains realised by non-residents on the transfer of shares (or business quota) in a Hungarian resident company are, in principle, not taxable in Hungary. However, if the company is a real estate company, the capital gains realised at the alienation of its shares by a non-resident could be taxable in Hungary at 9%. Alienation for the purposes of this rule includes: sale, in-kind contribution, transfer without consideration or the withdrawal of shares through a capital decrease. A company qualifies as a real estate company if: – the value of Hungarian real estate exceeds 75% of the aggregate book value of the total assets shown in its financial statement either individually or on a group level (including the taxpayer, its Hungarian tax resident related companies and the foreign related companies having a Hungarian permanent establishment either with or without Hungarian real estate); and – any of the shareholders of the taxpayer or of a group member is resident for at least one day in the tax year in a non-treaty foreign country, or in a treaty country where the tax treaty allows Hungarian taxation on such capital gains. These rules do not apply if the real estate company is listed on a recognized stock exchange.	Capital gains from the alienation of shares in a resident company held by non-residents are taxed in accordance with respective provisions of the tax treaty, i.e. either: – CIT exempt in Poland and taxed in the country of non-resident; or – subject to 19% CIT in Poland if the assets of resident company consist wholly or principally of immovable property situated in Poland (so-called "real estate clause"). In general, where a tax treaty is applicable, taxation will in principle be attributed to the country where the non-resident seller (shareholder) is resident by virtue of the applicable tax treaty. Therefore, CIT taxation of capital gains arising from disposal of shares in Polish resident company and realised by seller being non-Polish tax resident shall be taxed in Poland: – if real estate clause is applicable (under relevant tax treaty or under Polish CIT Act if no tax treaty is concluded between Poland and country of tax residence of the seller); – in case of sale of shares in listed companies if the seller is tax resident in the non-treaty country. Many tax treaties provides real estate clause like tax treaty concluded between Poland and Luxembourg or tax treaty concluded between Poland and Germany.	The following is treated as Slovak-sourced income of a foreign entity (as from 1 January 2018): (i) for all foreign legal entities, capital gains realised on a participation in a domestic company; (ii) for all foreign legal entities, capital gains realised on a participation in a company holding real estate situated in the Slovak Republic, the value of which exceeds 50% of equity of such company; and (iii) for all foreign legal entities, capital gains realised from the difference between (a) the amount accounted for a non-monetary contribution into the registered capital of a domestic company or cooperative and (b) the value of the asset subject to such non-monetary contribution. In the abovementioned cases, such capital gain should be taxed at the standard tax rate and the Slovak resident payer of the income would be obliged to withhold securing tax of 19% from the payment for the shares (for the taxable events mentioned under (i), (ii) and (iii) above) to the non-EEA resident sellers unless a relevant tax treaty provides otherwise. As from 1 March 2014, 35% applied on payments to residents of non-treaty countries. For further details see Section 3.2 above.

Czech Republic	Hungary	Poland	Slovakia
		On the other hand, there are several tax treaties without above clause as tax treaty concluded between Poland and Hungary or tax treaty concluded between Poland and Cyprus. On 29 October 2020 the protocol to the tax treaty with the Netherlands was signed based on which real estate clause is to be introduced to the treaty. As of 1 January 2021, sale of shares in a Polish real estate company results in obligation to settle the tax on capital gains from such sale of that real estate company (if the seller is not a Polish tax resident). Therefore, the Polish real estate company is obliged to calculate 19% CIT on such sale and to pay the tax. The above rules are applicable if the real estate clause is provided for in the relevant double tax treaty or no double tax treaty is concluded by Poland and the country of the seller's tax residency (as explained in Section 2.1.).	Under the majority of tax treaties, such capital gain would be taxed only in the country where the foreign entity is residing. However, the MLI might have significant impact on this taxation regime, particularly with respect to real property investments.

5. Anti-abuse provisions / CFC rules

Czech Republic

GAAR

See Section 2.2

CFC rules

ATAD CFC rules were implemented into Czech tax law as of April 1, 2019.

Corporate taxpayers should be subject to tax on income of foreign subsidiaries, subject to the following conditions:

- The controlled entity does not conduct any substantive economic activity;
- The tax burden of the controlled entity is lower than 50% of the tax burden which would have been under the Czech tax laws; and
- The parent (controlling entity) holds, directly or indirectly, at least 50% of the capital, voting rights or the right to profit in the foreign subsidiary (controlled entity); a permanent establishment of the controlling entity in a state with income exempt under a double taxation treaty may also be considered as a controlled entity.

The CFC rules should in principle only apply to (i) passive income such as dividends, interest, licence fees, finance lease, banking, insurance or financial activities, or to (ii) intragroup transactions with low or zero added value.

Hungary

CFC rules

Hungarian introduced new CFC rules as of 2019 in line the EU ATAD regulations.

A foreign company will constitute a CFC if:

- the Hungarian tax resident company holds (directly or indirectly) more than 50% of its shares or holds the majority of its voting rights or is entitled to more than 50% of its profits (‘control test’); and
- the effective tax rate on the foreign company’s profits is less than 50% of the hypothetical tax that it would have paid, had it been a Hungarian taxpayer in a similar situation (‘effective tax test). In simple terms, the effective tax test means that the effective foreign tax burden should at least reach 4.5% of the tax base calculated under Hungarian rules or that the given type of income should be tax exempt under the Hungarian rules.

However, a foreign entity or permanent establishment is not considered as a CFC in the given tax year if:

- its accounting profits do not exceed HUF 243,952,500, while its non-trading income does not exceed HUF 24,395,250 (‘profit and non-trading income test’); or
- its accounting profits do not represent more than 10% of its operating costs for the tax year in question (‘profit level on opex test’) or
- its income arises only from genuine arrangements (’genuine activity test’).

Poland

CFC rules

The Polish residents (both individuals and legal persons) are obliged to report income derived from Controlled Foreign Corporations (CFCs) in a separate tax return and tax that income at the rate of 19%.

A CFC must meet the following criteria cumulatively:

(1) a Polish resident solely or together with related entities holds, directly or indirectly, for an uninterrupted period of not less than 30 days, specific interest in that company – more than 50% share in (i) equity, (ii) voting rights in the management or constituting bodies or (iii) profits,

(2) at least 33% of the revenues earned by the foreign company are passive,

(3) actually paid CIT by foreign company is lower than difference between Polish CIT, which would have been due if such foreign company had been Polish taxpayer, and CIT actually paid in its country of incorporation or management.

Slovakia

General

According to general anti-abuse provision, the actions or other circumstances that are without economic substance and one of their aim is to avoid tax obligations or to gain unjust tax advantage are not taken into consideration by the tax authorities.

CFC rules

The CFC rules based on the ATAD 7.2(b) approach (i.e. the so called transactional approach) are effective from 1 January 2019. The wording of the rules is directly mimicking the rules in ATAD and Slovak Republic did not opt for any available exemptions.

Thin capitalisation rules

As from 1 January 2015, thin capitalisation rules were re-introduced.

The interest and expenses related to loans and credits between related parties are considered to be a tax deductible expense only up to 25% of the sum of the financial results before tax, depreciation and interest from received loans and credits.

Thin capitalisation rules do not apply to financial institutions, collective investment undertakings and leasing companies.

Czech Republic

Under the CFC regime, the foreign tax should be set-off against domestic tax in and the subsequent distribution of profits by the controlled company to the controlling company should not be subject to Czech taxation anymore.

Thin capitalisation rules on related party debt and profit participating loans

Under the Czech Income Taxes Act, financial expenses (interest on loans and other related financial expenses (bank fees, etc.)) are not deductible, if they (i) relate to profit sharing loans or (ii) exceed the 4:1 debt to equity ratio (6:1 ratio for banks and insurance companies) in respect of related party loans. Profit sharing loans provided by related parties are included in calculation of debt to equity ratio, however, the ratio is not applied to financial expenses from these profit sharing loans as they are already fully non-deductible. Back- to-back loans (i.e. loans provided by an unrelated party A to an unrelated party B that are provided under the condition that a directly corresponding loan or deposit is provided to party A by party C while party C and party B are related for Czech tax purposes) are subject to thin capitalisation rules as related party loans subject to a 4:1 or 6:1 debt to equity ratio.

Hungary

Please note that if the foreign entity or permanent establishment is situated in a non-cooperating jurisdiction, the above 'profit and non-trading income test' and 'profit level on opex test' does not apply and the foreign entity or permanent establishment is automatically considered a CFC. The list of non-cooperating jurisdictions is published in a ministerial decree but it is materially in line with the non-cooperating jurisdiction list of the European Union.

A transaction: (i) is non-genuine if it is put in place for the essential purpose of obtaining a tax advantage; (ii) is non-genuine to the extent that the foreign entity / PE "would not own the assets or would not have undertaken the risks which generate its income if it were not controlled by a company where the significant people functions, which are relevant to those assets and risks are carried out and are instrumental in generating the controlled company's income".

Moreover, a permanent establishment will be exempted from CFC status, if it is located in a country outside the EU or the EEA zone with whom Hungary has concluded a tax treaty that provides for exemption from corporate income tax on the income attributable to such a permanent establishment.

It is the Hungarian taxpayer who is liable to prove appropriately that the foreign company does not qualify as a CFC.

Poland

A CFC entails:

(1) each company having its registered office or management in the country included in the list of countries and territories applying harmful venue tax competition, as published by the Minister of Finance in the relevant regulation (i.e. regardless of the type of revenue earned by the company, of the share of a Polish resident in such a company or of the fact that the company carries on genuine business activity), and

(2) each company having its registered office or management in a country other than that indicated in the list referred to above, with which neither Poland nor the EU concluded an international agreement providing legal basis for exchange of tax information.

Starting from 2019 the definition of a 'controlled foreign company' has been changed. The list of entities qualified as CFCs has been extended to i.a. foundations, trusts and other fiduciary entities.

Revenues of a passive nature shall include dividend and other revenues on participation in the profits of legal persons, revenues on the transfer of shares, receivables, interest and benefits on any type of loans, sureties and guarantees, as well as revenues on copyrights and industrial property rights – including those on the transfer of the said rights, and revenues on the transfer and realisation of rights under financial instruments.

Slovakia

Transfer pricing rules

Since 1 January 2015, transfer pricing rules apply to both cross-border and intra-national transactions (before this date they applied only to cross-border transactions). In practice the tax authorities also challenge the transfer prices based on other general provisions of the tax law (abuse of law, substance over form).

The principles of Slovak transfer pricing rules comply with OECD rules.

Impact ATAD – CFC-legislation

As from 1 January 2019, CFC rules based on the transactional approach in ATAD apply to legal entities.

Impact ATAD – thin capitalisation rules / EBITDA

No changes to the existing thin capitalisation rules pursuant to ATAD have been implemented, neither proposed yet. Slovak Republic has claimed derogation under Article 11(6) of the ATAD Directive.

Impact ATAD – hybrid mismatch rules

The hybrid mismatch rules were implemented through incorporating the ATAD 2 wording into a separate section of the Slovak Income Tax Act as from 1 January 2020.

Czech Republic	Hungary	Poland	Slovakia
The non-deductible interest under thin capitalisation rules received by a Czech tax non-resident may be reclassified and treated as a dividend for withholding tax purposes (the reclassification must also be allowed by the respective tax treaty). Consequently, the non-deductible interest for the Czech borrowing company may then be subject to dividend withholding tax. This does not apply to interest received by EU, EEA or Swiss tax residents. **ATAD thin capitalisation rules** Under the new rules implementing ATAD effective as of April 1, 2019, interest costs are deductible only up to the higher of the following amounts: 30% of EBITDA and CZK 80 million per annum (the de minimis rule). Non-deductible interest cost can be carried forward (without any time limitation) and deducted it up to the limit above in later years. The interest deductibility limitation should not apply to financial undertakings or standalone entities. Thin capitalisation rules limiting the tax deductibility of interest on related-party financing should apply in parallel as well (see above).	Also, the Hungarian taxpayer is liable to keep an appropriate register on all transactions falling within the scope of the CFC rules. The register should include, among others, the main elements of the transaction, the contracting parties involved (name, trade registry number, tax ID, etc.) and the terms and conditions of the agreement (scope, starting date, etc.). The lack of documentation would incur penalty payment obligations. **Interest limitation rules** Hungary replaced its thin capitalization rules with the ATAD interest limitation regulation. According to the effective rules the net borrowing costs may be deducted up to 30% of the EBITDA or HUF 939,810,000 (approx. EUR 3 million), whichever is higher i.e. all interest costs are deductible as long as EUR 3 million is not reached. Aggregation rules apply to consolidated groups and tax groups. Interest income could be deducted from the interest expense when calculating the above threshold i.e. back-to-back financing is practically exempt from this rule. Unused capacity (i.e. in case the net borrowing costs are less than the threshold) can be carried forward up to 5 tax years. The interest limitation rule applies to both interest payments in relation to transactions with related parties and/or third parties, including banks and financial institutions.	The catalogue of the passive revenues was extended to i.a. related-party transactions, where foreign company does not generate economic added value or this value is negligible. income derived from insurance and banking activity. The said provisions do not apply to taxpayers controlling companies located in an EU Member State or a state that belongs to the EEA, provided that the foreign company carries on 'important genuine economic activity' there. This terms has been defined in the provisions of the CIT Act. **Thin capitalisation rules** Costs of debt financing (both resulting from intra-group and external financing) is excluded from tax-deductible costs in part in which the surplus of costs of debt financing over interest-type revenues [the Surplus] exceeds 30% of tax EBITDA. This limitation should not apply to part of Surplus not exceeding PLN 3 million. Therefore, thin capitalization should not apply to the Surplus not exceeding sum of: PLN 3 million and 30% tax EBITDA. The tax authorities currently claim that the limit should be determined at higher of the two values: either PLN 3 million or 30% tax EBITDA (not a sum of them).	**Impact ATAD – exit tax** The ATAD exit tax rules were implemented with a possibility for installment payment over five years if the assets were transferred to another EU/EEA Member State.

Czech Republic

Transfer pricing rules

Related parties for the purposes of the transfer pricing rules are broadly defined in relation to 25% share in the capital or voting rights of the other party. Generally, all related party transactions should be carried on at arm's length prices. Otherwise, the tax authorities could adjust the tax base of a company by an ascertained difference between actual and arm's length price.

OECD and EU transfer pricing rules were translated and published officially by the Ministry of Finance but they are not incorporated in law and, therefore, they are not legally binding. As a result, there are no contemporary documentation requirements. See Section 2.7 for tax ruling policy on transfer pricing issues.

ATAD hybrid mismatch rules

Under the new rules implementing ATAD, the tax advantageous effects of qualifying hybrid mismatches should be eliminated by corresponding increase in the Czech income tax base. These new rules apply as of 2020.

Hungary

General anti-abuse rule (GAAR)

There is a general anti-avoidance rule which allows the tax authorities to ignore the legal form of an arrangement between entities and to look at the actual substance or genuine purpose of a contract or transaction ('substance over form principle').

Under an additional general anti-avoidance provision, costs, expenditures and losses related to a contract or a transaction are not deductible for CIT purposes if the purpose or one of the main purposes of the contract or transaction is mainly to achieve tax advantages.

The 'abuse of law' doctrine applies in Hungary to contracts and transactions entered into or performed. This means that rights and transactions must be exercised and carried out properly and lawfully, in line with their specific purpose and in line with the constitutional obligation of contributing to public spending.

The doctrine allows the tax authorities to assess on the basis of all relevant facts and circumstances, tax liabilities stemming from contracts, transactions or other arrangements that are considered to have the sole purpose of circumventing tax provisions and avoiding taxes.

Poland

Nevertheless the administrative courts state that thin capitalisation should be apply to Surplus exceeding sum of PLN 3 million and 30% tax EBITDA. Costs of debt financing are all kind of costs related to obtaining and using funds from other entities (also from unrelated parties, including banks).

All interest which is not deducted in a given year due to thin capitalization limitations may be fully deducted in five subsequent tax years – within limits binding in these years. Some exceptions apply, including lack of possibility to carry forward interest in the case of merger, demerger or transformation.

Financial entities (banks, credit institutions, insurance companies) are not subject to new thin capitalisation limitations.

Transfer pricing rules

The Polish CIT Law contains transfer pricing regulations. Such regulations authorise the tax authorities to assess the income on the transaction between related parties if the authorities consider it as being not at arm's length. In addition, Polish taxpayers must prepare transfer pricing documentation regarding transactions with related parties as well as with entities from low-tax jurisdictions listed in the Regulations of the Minister of Finance.

Slovakia

Czech Republic	Hungary	Poland	Slovakia
ATAD 2 generally covers the following types of hybrid mismatches: (i) double deduction; (ii) deduction without inclusion; (iii) imported mismatches; (iv) disregarded permanent establishment; (v) hybrid transfers; (vi) reverse hybrid mismatches; and (vii) tax residence mismatches. The Czech law implemented measures against double deduction, deduction without inclusion and imported mismatches. No measures against other types of listed hybrid mismatches were implemented into the Czech law as the law effectively disallows these already.	**Transfer pricing rules** The transfer pricing rules are generally based on the OECD guidelines and state that transactions between related parties must be at arm's length for taxation purposes. Transfer prices must be documented. In addition, related party status also applies where a controlling influence on business and financial policy exists between two entities based on their identical management. **Impact ATAD – CFC-legislation / thin capitalisation rules / EBITDA / hybrid mismatch rules** See comments above. Hungary adopted new CFC, interest limitation, exit tax and anti-hybrid rules in accordance with the ATAD. **Impact ATAD – Exit tax** ATAD based exit tax rules are effective as of 2020. Based on such rules the difference between the market value and the book value of the assets transferred outside of Hungary will be subject to general corporate income tax with 9% ("exit tax") in case: - a taxpayer transfers its place of effective management together with its tax residence to another Member State or to a third country; or	As of 2019 the amendments to the transfer pricing obligations were introduced. In some cases transactions between the Polish entities are out of the scope of the transfer pricing documentation obligation. Moreover, some transfer pricing materiality thresholds have been increased (e.g. the current thresholds are PLN 10 million net with respect to financing and commodity transactions and PLN 2 million net with respect to intangible services and other transactions). The abovementioned thresholds are calculated for homogenous transactions. Safe harbors were introduced to the particular types of transactions (i.e. loans and low value-added services) Starting from 2019, a benchmarking study is obligatory part of the local file. Also, taxpayer is obliged to submit written statement that required transfer-pricing documentation was prepared for a given tax year and that the related party transactions described in such documentation had been conducted according to the arm's length principle.	

Czech Republic	Hungary	Poland	Slovakia
	- a taxpayer transfers assets from its head office to its permanent establishment in another Member State or in a third country; or - taxpayer transfers assets from its permanent establishment in a Member State to its head office or another permanent establishment in another Member State or in a third country; or - taxpayer transfers the business carried on by its permanent establishment from a Member State to another Member State or to a third country. If assets are transferred to an EU or EEA member state the taxpayer is entitled to pay the exit tax in instalments for five years. **Impact ATAD – hybrid mismatch** As of 1 January 2020, the hybrid mismatch rules of ATAD had been implemented. The rules enable Hungary to prevent double deduction or deduction without inclusion outcomes resulting from differences in the legal characterization (i.e. hybrid mismatches).	Additionally, as of 1 January 2021 Polish taxpayers must prepare transfer pricing documentation regarding transactions: – with non-related entities from low-tax jurisdictions listed in the Regulations of the Minister of Finance (i.e. tax havens – but only in case of cost transaction for the Polish taxpayer if the value of transaction exceeded PLN 100 thousand);if beneficial owner of receivables has a place of residence, registered office or management board in a 'tax haven", and the value of this transaction for the tax year exceeds PLN 500 thousand. While reviewing abovementioned circumstances, the taxpayer should exercise due diligence. The documentation relating to such transactions must also include an economic justification, in particular a description of the expected economic benefits, including tax benefits. Additionally, alongside with preparation of transfer pricing documentation, the Polish taxpayer is obligated to fulfil and submit the special form concerning information about transfer pricing (TP-R). TP-R forms requires very wide and detailed scope of information, concerning the taxpayer and transactions conducted with related entities. First TP-R forms were submitted to the Polish tax authorities in 2020 (for the information from 2019).	

Czech Republic	Hungary	Poland	Slovakia
	Under Hungarian law the following seven scenarios qualify as hybrid mismatches, provided that they are carried out between related parties or under the so called 'structured arrangements': (i) financing or equity return is paid, that would be taxed under the rules for taxing debt, equity or derivatives, if due to differences in the legal characterization, the payment is deducted from the payor tax base in the tax period beginning at the latest within twelve months following the end of its current tax period, while the payment is not included in the tax base of the payee, and it can be presumed that the payment will not be included in its future tax base either. However, this scenario does not cover situations where the payment is made by a financial trader engaged in the business of regularly buying and selling financial instruments for the purposes of making a profit and the underlying return on the transferred financial instrument is treated for tax purposes as derived simultaneously by more than one of the parties to that arrangement, provided that the financial trader is required to include all amounts received in relation to the transferred financial instrument as income; (ii) a payment to a hybrid entity is deducted from the payer's tax base, where due to mismatches in the rules of allocation of payments, the payment is not included either in the tax base of the hybrid entity or in the tax base of any person with a participation in that hybrid entity,	The written statement and the TP-R form has to be submitted to the Polish tax authorities within statutory deadline determined as the end of the ninth month, after end of the given tax year. In 2020 the deadline for fulfilling obligations for FY2019 was expanded up to the end of twelfth month after end of the given tax year - as a result of COVID Pandemic. The deadline for submitting TP-R forms for FY2020 is 31 December 2021. As of 2021, the scope of information to be included on TP-R forms with respect to 2020 expanded significantly (compared to TP-R forms submitted for 2019) in particular regarding the following matters: – introduction of new specific categories in terms of restructuring transactions; – obligation to provide information on partnership agreements; – offsetting; – expanded scope of information for financial transactions using the safe harbors mechanism. If tax authorities assess additional taxable income resulting from a transaction, the difference between the income declared by the taxpayer and the income assessed by the tax authorities is subject to a penalty tax rate (tax rate applied for the assessed difference of the income is calculated as standard tax rate i.e. 19% plus penalty tax rate 10%). In some circumstances penalty tax rate can be doubled and tripled.	

Czech Republic	Hungary	Poland	Slovakia
	(iii) a payment to an entity with one or more foreign PEs made by a third party is deducted from the payer's tax base to the extent where due to differences in the rules on the allocation of income the payment is not taken into consideration in the tax base of the head office or its PE; (iv) a payment made to a disregarded PE is deducted from the tax base of the payer to the extent the payment is not included in either the tax base of the PE or in that of the person to which the PE belongs. For the purpose of this rule, "disregarded PE" means any activity that is treated as giving rise to a PE under the laws of the head office jurisdiction and is not treated as activity giving rise to a PE under the laws of the other jurisdiction; (v) a payment by a hybrid entity is deducted from the hybrid entity's tax base to the extent the payment is not included in the tax base of the payee as a result of the fact that the payment is disregarded under the corporate tax laws of the payee's jurisdiction; (vi) a deemed payment between the head office and PE or between two or more PEs is deducted from the tax base of the payor to the extent the payment is not included in the tax base of the payee as a result of the fact that the payment is disregarded under the corporate tax laws of the payee jurisdiction, or	Penalty tax rate can be doubled if: (i) The basis for determining the additional tax liability exceeds PLN 15 million (in excess of this amount) or (ii) The taxpayer did not submit tax documentation to tax authority. If, at the same time, above mentioned circumstances occurs cumulatively, the penalty tax rate will be tripled. **GAAR** As of 1 January 2019 some important changes in scope of the Polish GAAR have been introduced. Essentially, GAAR confers upon the Head of National Tax Administration the power to challenge the tax effects of any actions that result in tax avoidance. An action should be understood also as a number of correlated measures taken by the same or different entities. An action may also consist in omission.	

Czech Republic	Hungary	Poland	Slovakia
	(vii) the amount that is deducted from the tax base of the taxpayer where the same amount is also deducted from the tax base of a foreign person. 'Structured arrangement' means an arrangement involving a difference in the legal characterization of the same facts between the states affected, where the mismatch outcome is priced in the arrangement or an arrangement that has been designed to produce a mismatch outcome, unless the entity that is a party to the agreement could not been expected to be aware of the hybrid mismatch and did not share in the value of the tax benefit resulting from such arrangement. The mismatch referred to in point (v)-(vii) is not applicable to the extent if there is income arised under such mismatch that is recognized as income under the tax laws of all states involved. In the above cases, the respective cost deductions must be denied, or the income shall be taken into consideration when calculating the tax base of the taxpayer.	Currently, in order to apply GAAR the following conditions should be jointly met: i. an action has been undertaken solely or primarily in order to gain a tax benefit; ii. tax benefit achieved in result of the action undertaken would be, in the circumstances, contrary to the subject or purpose of the tax act or its provision, and iii. the taxpayer's course of action has to be artificial. A course of action is considered to be artificial if, on the basis of the existing circumstances it must be assumed that an entity acting reasonably and guided by lawful purposes would apply that method of operation to a predominant extent for justified economic reasons. The above reasons do not include the purpose of obtaining a tax advantage contrary to the object or purpose of the tax act or its provision. The tax benefit should be understood as: i. no tax liability arising under the Polish law, a delay in the establishment of tax liability or a reduction of its amount or an occurrence or overvaluation of tax loss; ii. arising under the Polish law of a balancing credit or a right to a tax refund or an increase in the amount of the balancing credit or tax refund.	

Czech Republic	Hungary	Poland	Slovakia
		Additional tax (penalty) liability As of 1 January 2019 – if GAAR provisions would be taken into account by the tax authorities, they may assess additional tax liability calculated according to 10%-40% CIT rate. However, if the decision is issued in the field of CIT and the tax base is income - then the additional tax liability is 10% of the sum of the components resulting from this decision. If the issued decision concerns a false declaration or statement in the field of the WHT or if the tax remitter fails to verify the taxpayer (e.g. with respect to the genuine business activity of the taxpayer in its country of residence), the additional tax liability will amount to 10% of the tax base of the receivable which is the subject of WHT. Considering the fact that introduction of part of the new WHT provisions has been postponed to 2022, in practice the above rule will be applicable as of 1 January 2022 as well. Additional tax liabilities can be used by tax authorities: i. if a decision was made on the basis of GAAR; ii. if a decision was issued with application of limitation of benefit clauses (i.e. regulations or other measures restricting or refusing to apply double taxation treaties ratified by Poland);	

Czech Republic	Hungary	Poland	Slovakia
		iii. if a decision was made in connection to the regulations preventing tax avoidance in relation i.a. to exchange of shares) and SAAR in relation to interest / royalties / dividend payments; iv. if there was an increase in income and determination of tax - based on arm's length principle; v. if a decision was made based on the fact, that the statement made during the WHT settlement was not true or the verification made by the tax remitter was not adequate to the nature and scale of the tax remitter's activity. Under certain specific circumstances, the rates of additional tax liability can be doubled or tripled (e.g. if the taxpayer does not submit transfer pricing documentation covering the transaction being questioned on the grounds of GAAR). **Impact ATAD – CFC-legislation / thin capitalisation rules / EBITDA** Provisions implementing the ATAD Directive were introduced to Polish tax law. **Impact ATAD – hybrid mismatch rules** The provisions on hybrid structures have been adopted and entered into force on 1 January 2021. They apply to income (revenues) obtained in the tax year starting after 31 December 2020.	

Czech Republic	Hungary	Poland	Slovakia
		Newly added regulations introduce an extensive catalogue of autonomous definitions and terms with respect to various forms of hybrid mismatches. Hybrid structures should be understood as a combination of two or more basic organizational structures aimed at tax optimization in the countries where they are created. A hybrid payment, on the other hand, means a financial instrument that is classified differently for tax purposes in the country of the remitter and in the country of the recipient. The Polish CIT Act provides for the following types of hybrid mismatches: – hybrid entity mismatches; – hybrid financial instruments mismatches; – hybrid transfers; – hybrid permanent establishments mismatches; – entities with double tax residency mismatches. Impact of the new regulations on hybrid discrepancies occurs in the case of related entities within the meaning of the transfer pricing regulations or entities being in the capital group preparing consolidated statements and with structured arrangements (i.e. arrangements which exploit a mismatch in the qualifications of hybrid structures).	

Czech Republic	Hungary	Poland	Slovakia
		Lack of the right to deduct or exempt will also apply to payments, which directly or indirectly finance hybrid mismatches. A tax benefit in the case of a hybrid discrepancy arise in connection with a double deduction (DD) or a deduction without corresponding inclusion of this payment in the tax base in another jurisdiction (D/NI). Under certain conditions, the taxpayer will be not entitled to recognize the D/D or D/NI expenses as its tax deductible costs. In addition, with regard to situations related to the D/NI, the provisions exclude the neutrality of certain revenues under the Polish CIT Act, e.g. interest accrued, revenues received for the purpose of capital increases, or revenues received as a result of mergers or divisions of companies.	

6. Tax and investment incentives

Czech Republic	Hungary	Poland	Slovakia
Certain limited costs for research and development and for vocational education, which have already been included in the accounting profit and considered tax deductible, may be deducted from the tax base for the second time as a special tax allowance. Other tax incentives are provided in a form of up to 10 year tax holiday (tax relief) based on the approved investment project in manufacturing industry, building of technological centers and strategic services. There may be some other small incentives, but these are usually immaterial.	A large number of incentives are available e.g. relating to material investments, investments in intangible assets (e.g. IP rights), investment in certain under-developed regions, environmental investments, employment enhancing investments, etc. Some of these incentives take the form of a tax credit applicable for a given percentage of the qualifying investment (e.g. development incentives); while others trigger a special allowance which is deductible from the taxable base in addition to the investment costs which have already been recognised in the company's accounting profits (e.g. R&D incentives). One of the incentives to note is the incentive available for IP investment. Similar to the participation exemption rules on the taxation of capital gains from the alienation of 'reported shares', capital gains derived by a Hungarian company on the disposal of certain qualifying valuable rights (e.g. IP rights) could be exempt from CIT, under the following conditions: – the rights are owned for at least one year; and – the acquisition of the rights has been duly reported to the Hungarian Tax Authority within 60 days from the acquisition / transfer of the place of effective management to Hungary. This incentive allows a tax free step-up in asset value.	The New Investment Support Act entered into life in order to stimulate innovation and encourage domestic and foreign investors to invest in Poland. The area in which companies may benefit from tax exemptions incorporates 100% of all investments areas in Poland. Special Economic Zones are demarcated, greenfield / brownfield area where business activities may be conducted under special conditions. The existing permits for operating in special economic zones are valid until the end of 2026. Under the new regulations, the Polish Investment Zone was created, under which, after meeting certain criteria, it is possible to obtain CIT or PIT exemptions in almost the entire country, and not only in separate zones. The amount of tax relief depends on the location of the investment and size of enterprise. The relief can be 10-50% for large companies, 20-60% for medium companies and 30-70% for micro and small enterprises. The exemption period may last up to 15 years.	The new tax relief rules apply to the Government / EU Commission decisions on regional investment aid taken from 1 April 2018. Tax relief may be obtained for a period of 10 years if certain conditions are satisfied according to the new Investment Aid Act and EU State Aid regulation, subject to the approval of the Slovak Government and European Commission. Only proportional tax relief may be claimed. The maximum limit represents the tax corresponding to the part of the tax base calculated as a ratio of the incurred eligible costs in the respective tax period to the total eligible costs multiplied by 0.5. The tax relief in any tax period may not exceed 20% of total tax relief granted. Specific rules effective as of 2010 apply to the calculation of proportional tax credit granted for research and development. As from 1 January 2015, a new type of tax relief (so-called 'super deduction') was introduced. The super deduction is available to taxpayers conducting research and development, and consists of 'additional' deduction of expenses (costs) for research and development from the tax base.

Czech Republic	Hungary	Poland	Slovakia
	With the above incentive, together with the incentives on royalty income (see Section 2.1) and the lack of domestic WHT on royalty payments, Hungary offers an attractive IP regime.	**Research and development incentive** It is possible to deduct from the taxable base certain qualified expenditures incurred for R&D activities (not withstanding their prior deduction as an ordinary cost under the general rules), if the taxpayer earned income other than income classified to capital gains source. The provisions contain a closed list of such expenditures, which should also qualify as tax-deductible costs under the general tax rules. The provisions are very complex, however in total the deductions may be made up to 150 percent for categories of eligible costs for taxpayers having the status of a research and development center (R&D Center) or in case of micro/small/ medium entrepreneurs (100 percent for all categories of eligible costs for other taxpayers). Qualified expenditures ought to be deducted in the year in which they were incurred, and if the taxpayer does not generate sufficient income or incurs a loss in this particular year, in the period of six consecutive fiscal years directly following the aforesaid year. There are several conditions requested for an application of R&D tax relief.	As from 1 January 2020 the available relief is up to the sum of (i) 100% of expenses (costs) stipulated by law and incurred in the respective tax period; and (ii) 100% of the (positive) difference between averages of R&D expenses incurred in (a) the current (Y) and immediately preceding tax period (Y-1) and (b) the immediately preceding tax period (Y-1) and the tax period preceding it (Y-2). As from 1 January 2018 a new 'patent box' regime has been introduced under which 50% of royalty income related to results of research and development of a taxpayer in Slovakia and being a (i) patent, design, or protected technical solution; or (ii) software is exempt from tax. Further, under the same regime, 50% of income generated by sale of products where the above IP rights were used in the production process is exempt as well.

Czech Republic	Hungary	Poland	Slovakia
		Innovation box Starting from January 2019, income generated from innovative and patented solutions created, developed or improved by the taxpayers is taxable at a preferential rate of 5% (instead of 19%). The income taxable at the preferential rate of 5% will be determined as a result of the income earned from the eligible intellectual property right in the fiscal year. To be eligible for the relief, the tax payer must meet two conditions: 1) carry out R&D activity directly related to creating, commercialising, developing or improving an asset in the form of intellectual property right; 2) keep accounting records separated so that it is possible to calculate the taxable base with respect to the innovation box. **Bad debts relief** The mechanism introduced in 2020 allows the creditor to reduce the tax base by the amount of receivables included in revenues which have not been repaid or sold within 90 days from the payment date set by the parties in the agreement, on the invoice or receipt. If the amount of the reduction exceeds the tax base, the deduction may be made in subsequent tax years (up to next three tax years) provided that the amount due was not settled or disposed of during that period.	

Czech Republic	Hungary	Poland	Slovakia
		In a case of tax loss in the source of income to which the transaction is related, the taxpayer is entitled to increase the value of the loss by the amount of the outstanding debt. For debtors the provisions introduce an obligation to increase the tax base / reduce the tax loss by the outstanding amount. There are certain other requirements which must be met in order to apply the above-described mechanism.	

7. MLI and income tax treaties

7.1 Signatory to the MLI / ratification

Czech Republic	Hungary	Poland	Slovakia
The Czech Republic acceded to the MLI and the Czech position is to implement the minimum standards (principal purpose test and dispute resolution) prescribed by the MLI. The Czech Republic ratified MLI and deposited the instrument of ratification on May 13, 2020. For the Czech Republic, the MLI entered into force on September 1, 2020. Out of 88 Czech double taxation treaties, the MLI should apply to 52 of them, for which the resulting changes are foreseeable.	After depositing its instrument of ratification on 25 March 2021, the MLI was introduced into the Hungarian legal system. It enters into force on 1 July 2021 and the first modifications are expected 1 January 2022 at the earliest. The consolidated versions of the double tax treaties will be published in the second half of 2021. Besides the minimum standards (modification of the preamble, principal purpose test, mutual agreement procedure) Hungary pledged to apply the amendment of the transfer pricing rules and the "independent opinion" approach regarding arbitration. Under the MLI, as of now 48 out of Hungary's 74 double taxation treaties will change.	On 23 January 2018, Poland became the fourth country to deposit its instrument of ratification for MLI. As of 1 July 2018 MLI entered into force in Poland. Poland accepted the application of Article 7(1) of MLI (i.e. "principal purpose test") as an interim measure, and intends where possible to adopt a limitation on benefits provision, in addition to or in replacement of Article 7(1) of MLI (through bilateral negotiation). In respect of dividends, Poland reserved the right for the Article 8 of MLI (Dividend Transactions) not to apply to its Covered Tax Agreements to the extent that the provisions described in Article 8(1) of MLI already include a minimum holding period. Anti-abuse rules regarding permanent establishment have not been chosen. In respect of dual resident entities (Article 4) Poland has notified some of the Covered Tax Agreements as to not to apply to its Covered Tax Agreements that already address cases where a person other than an individual is a resident of more than one Contracting Jurisdiction by requiring the competent authorities of the Contracting Jurisdictions to endeavour to reach mutual agreement on a single Contracting Jurisdiction of residence.	Slovakia has opted to apply MLI to 64 (practically all) of its existing DTTs but actual application of, e.g. principal purpose test will depend on the position of partner states. The MLI has already been ratified and the ratification documents have already been deposited by Slovakia. Currently, out of the 69 treaties 16 partner states have not signed the MLI at all; three partner states (Norway, Tunisia, and Switzerland) have decided not to subject their treaties with Slovakia to MLI.

7.2 Income tax treaties and effect of the MLI [2]

Treaties between countries included in this brochure that will be amended by the MLI are shown in the overview below. The relevant treaty is included below in **bold** in case both countries have listed the respective treaty as a Covered Tax Agreement. In case both countries have deposited their instrument of ratification, the date of entry into effect of the MLI for withholding taxes is included. In case both countries have opted for provisions of articles 4, 9 and/or 10 of the MLI and the treaty will be amended for these articles, this is also included below. For detailed provisions, including the exact amendments of articles 4, 9 and 10 and the other provisions, reference is made to the OECD MLI Matching Database. This overview provides the status as of 1 June 2021.

Czech Republic	Hungary	Poland	Slovakia
1. **Belgium**	1. **Belgium**	1. **Belgium** (1/1/2020, art. 9 (1)(b) MLI)	1. **Belgium** (1/1/2020)
2. **Bulgaria**	2. **Bulgaria**	2. **Bulgaria**	2. **Bulgaria**
3. **Croatia**	3. **Croatia**	3. **Croatia** (1/1/2021, art. 9 (4) MLI)	3. **Croatia** (1/1/2022, art. 9(4) MLI)
4. **Cyprus**	4. **Cyprus**	4. **Cyprus** (1/1/2021)	4. **Cyprus** (1/1/2021)
5. **Estonia**	5. **Czech Republic**	5. **Czech Republic** (1/1/2021)	5. **Czech Republic** (1/1/2021)
6. **Hungary**	6. **Estonia**	6. **Estonia** (art. 9(4) MLI)	6. **Estonia** (art. 9(4) MLI)
7. **Latvia**	7. **Latvia**	7. **Hungary** (1/1/2021)	7. **Hungary**
8. **Lithuania**	8. **Lithuania**	8. **Latvia** (1/1/2021)	8. **Latvia** (1/1/2021)
9. **Luxembourg**	9. **Luxembourg**	9. **Lithuania** (1/1/2020)	9. **Lithuania** (1/1/2019)
10. **Malta**	10. **Malta**	10. **Luxembourg** (1/1/2020)	10. **Luxembourg** (1/1/2020)
11. **Netherlands**	11. **Netherlands**	11. **Malta** (1/1/2020)	11. **Malta** (1/1/2020, art. 9(4) MLI)
12. **Poland**	12. **Poland**	12. Netherlands*	12. **Netherlands** (1/1/2020, art 4(1) and art. 10 (1) through (3) MLI)
13. **Romania**	13. **Romania**	13. **Romania** (art. 4(1) MLI)	13. **Poland** (1/1/2019, art. 4(1) and 9(4) MLI)
14. **Slovakia**	14. **Slovakia**	14. **Slovakia** (1/1/2020, art. 4(1) and 9(4))	14. **Romania** (art. 4(1) MLI)
15. **Slovenia**	15. **Slovenia**	15. **Slovenia** (1/1/2019, art. 4(1) and 9(4) MLI)	15. **Slovenia** (1/1/2019, art. 4(1), 9(4) and 10 (1) through (3) MLI)
16. **Switzerland**	16. Switzerland	16. Switzerland	16. Switzerland

2 Only comprehensive income tax treaties potentially relevant for investment in and from CEE countries are included.

* The existing tax treaty was amended on 29 October 2020 by the protocol which included provisions of MLI, including art. 9(4) MLI.

Part III

Bulgaria, Croatia, Slovenia, Romania

1. Capital tax / stamp duty / real estate transfer tax / real estate tax

Bulgaria

Capital tax
There is no capital contribution tax in Bulgaria.

Stamp duty
An insignificant amount of state fees is due upon the registration in the commercial register of a newly incorporated company, announcement of corporate documents (by-laws, annual financial statements, etc.) and any subsequent corporate changes, including (i) a new shareholder in a limited liability company, or (ii) the increase of the capital of any commercial company. Transfer of shares in a limited liability company requires notarisation of the content and signatures on the transfer agreement which triggers payment of notary fees. Notary fees also apply for in-kind capital contributions.

Real estate transfer tax
Transfer of real estate or establishment of limited rights in rem over real estate is subject to municipal transfer tax of between 0.1% to 3.0%, chargeable on the higher between:
- the agreed purchase price; and
- the tax evaluation of the asset, determined by the municipality.

However, this is not relevant upon capital contributions, because if transferred as in-kind contribution to the capital of a Bulgarian company, such a transfer will be exempt from such municipal tax. Transfer of going concern is also not subject to such tax.

Croatia

Capital tax
There is no capital tax or stamp duty in Croatia.

Real estate transfer tax
Real estate transactions are subject to Real Estate Transfer Tax (RETT). The Croatian legislation defines a real estate transaction as every acquisition of ownership of property. Under the Croatian legislation real estate is defined as:
- Land – whether used for building purposes or used for agricultural purposes;
- Buildings – whether residential buildings, business buildings or other buildings.

The tax base is defined as the market value of the property at the moment of acquisition, or the market value that could be obtained at the moment of acquisition (e.g. if the property is transferred without consideration). The market value of the property is obtained from the acquisition certificate (e.g. Purchase Agreement, Condemnation, etc.). Furthermore, if the market value stated in the contract is questioned by the tax authorities, they are authorised to determine the market value by assessment. In this case the taxpayer is obliged to cooperate fully with the tax authorities.

RETT is paid at a rate of 3% and the taxpayer is the person who acquired the property (e.g. buyer or successor). Public notaries, courts and other public entities are obliged to report transactions to the relevant tax office.

Slovenia

Capital tax
There is no capital tax or stamp duty in Slovenia.

Real estate transfer tax
There is a real estate transfer tax of 2% of the market value (if the VAT has been paid, no real estate transfer tax is imposed).

If real estate transactions are subject to VAT in accordance with the provisions of VAT Law, no RETT should be levied. In accordance with the VAT Law, real estate transactions that are subject to VAT include buildings and real estate on which those buildings are constructed that have not been inhabited or those where two years have passed since the date of first occupation or use. Transfer of building land should also be subject to VAT. In certain cases of VAT exempt supplies, there is a possibility to opt for VAT, presuming that the recipient of the supply is a taxable person with the full right to input VAT deduction. The right to opt must be exercised at the time of supply, whereas the VAT is subject to reverse charge mechanism and paid by the recipient of real estate. In such case, no RETT should be levied.

Romania

Capital tax
There is no capital contribution tax in Romania.

Stamp duty
As of 1 February 2017 companies are no longer required to pay registration fees or other fees regarding the registration of new elements during the existence of a company.

Real estate transfer tax
Real estate transfer has to be done pursuant to agreements authenticated by public notary. There is no real estate transfer tax; however, real estate transfers are subject to notary fees ranging from 2.2% (but not less than RON 150) on the values up to RON 15,000, to 0.44% plus RON 5,080 on the values exceeding RON 600,001, depending on the (i) purchase price or (ii) the evaluation of the asset determined by the public notary authority (whichever is the greater). Furthermore, a 0.5% registration fee of the real estate with the Land Book is to be paid by the buyer.

Real estate tax
A local tax on buildings is payable by the owner. The tax is levied on the building's taxable value (which could be the book value or the value determined based on an appraisal report), at rates varying between 0.08% and 0.2% for residential buildings, between 0.2% and 1.3% in the case of non-residential buildings and at 0.4% in the case of buildings used for the purpose of agricultural activities.

Bulgaria

Real estate tax

The real estate tax for non-residential real estate assets owned by legal entities is calculated on the higher value between their book value and their tax evaluation and the real estate tax for residential real estate assets owned by legal entities is calculated on their tax evaluation.

The rate of the tax is determined by the respective Municipal Council and may vary in the range between 0.01% and 0.45%. In case right of use is granted over the real estate asset, tax obligor for the real estate tax is the acquirer of the limited right in rem. Tax obligor for real estates, owned by the State or a municipality, is the person that manages the real estate.

Pursuant to a new rule effective as of 1 January 2017, the concessionaire shall be the tax obligor if a concession has been awarded.

Where a concession for extraction has been awarded, the tax obligor shall be the owner, except for the cases where the concessionaire has been granted with the right of use of the real estate. Real estate with tax evaluation not higher than BGN 1,680 (approx. EUR 860) is exempted from real estate tax.

BGN 1 = € 0.511292 (fixed rate)

Croatia

The tax must be paid within 15 days of delivery of the decision on RETT. If not applicable, the taxpayers are obliged to report real estate transactions themselves.

If real estate transactions (building and building land) are subject to VAT in accordance with the provisions of VAT Law, no RETT will be levied. In accordance with the VAT Law, buildings that are subject to VAT include those buildings or their parts that have not been inhabited or that have been used for less than 2 years since the date of first occupation or use.

Similarly, building land that is subject to VAT is land for which a building permit or similar building document has been issued. In the case of VAT exempt supplies, there is a possibility to opt for VAT, presuming that the recipient of the supply is a taxable person with the full right to input VAT deduction. The right to opt must be exercised at the time of supply.

If the seller of the real estate is not registered for VAT purposes, RETT is paid on the market value of the real estate and land. RETT is a final tax and cannot be reclaimed.

Real estate tax

There is no general real estate tax in Croatia.

Slovenia

Real estate tax

There is no general real estate tax. In 2013, the Government enacted the new real estate tax replacing all current taxes and duties related to real estate ownership, but the Constitutional Court declared it unconstitutional. Accordingly, the current taxes and duties related to real estate ownership will apply also in the future.

Romania

If the building has not been appraised during the past five years, the rate is of 5%.

The annual tax is determined based on the building's taxable value as of 31 December of the previous year, being valid throughout the following year.

A local tax on land is payable by the owners of land. The maximum rate is RON 2.0706 per m^2 for land located in urban areas, while for land located outside urban areas, the rate per m^2 is up to RON 0.01456.

RON 1 = € 0.2053 (1 January 2021)

Bulgaria	Croatia	Slovenia	Romania
		A land and building compensation duty is imposed on owners or users (renters, etc.) of plots of land and buildings. The obligations as such and tax rates are set up by the municipalities. For individuals, the duty is deductible if the property is used as business property. In addition, a property tax is levied on individuals who own premises (including plots of land and buildings that are also subject to the above duty). The tax rates are progressive and depend on the type of premise and its value.	

2. Corporate income tax (CIT)

2.1 CIT and wealth taxes

Bulgaria

The general CIT rate in 2021 is 10%.

Resident companies are taxed on their worldwide income. The taxable base is computed on the basis of accounting profit by adjusting it for tax purposes.

Collective investment schemes that have been admitted to public offering in the Republic of Bulgaria, national investment funds and special purpose investment companies under the Special Purpose Investment Companies Act shall be exempt from CIT.

Alternative final corporate taxes are levied on some categories of expenses. The taxed expense, when properly documented, and the tax are deductible for profit tax purposes.

Out-of-pocket expenses related to business activity, social expenses, rendered in-kind expenses (including expenses for contributions for voluntary health and social security, 'Life' insurance and certain expenses for food vouchers) and expenses rendered in-kind related to company assets used for private purposes by company employees, are subject to the 10% alternative final corporate tax.

Wealth taxes

There is no wealth tax in Bulgaria.

Croatia

Any profit derived by a corporation or – under certain conditions – individual entrepreneurs is subject to CIT at a flat rate of 10% (in the event of revenue amounting to HRK 7,5 million in a tax period) or 18% otherwise, regardless of whether the profit is distributed to shareholders or retained.

Taxable income is computed on the basis of the accounting regulations (the Croatian Financial Reporting Standards (CFRS)), which are applicable for small and medium-sized companies and the International Financial Reporting Standards (IFRS), which are applicable for large companies as the difference between revenues and expenditures before CIT, which is increased or decreased under the provisions of the CIT Law. As a result of the adjustment, the taxable income of a company differs from its accounting profits. The tax base also includes a profit derived from the liquidation, sale, change in the legal form and division of a taxpayer and is determined at the market value of assets unless the CIT Law provides otherwise. Taxable income is computed on an accrual basis.

Foreign tax credit

Foreign tax actually paid abroad may be credited against the tax liability on the foreign income. The tax credit cannot be higher than the domestic tax on such an income.

Wealth taxes

There are no wealth taxes in place at the moment.

Slovenia

From 1 January 2017 the general CIT rate is 19%.

Slovenian resident companies (corporations and partnerships) are subject to tax on their worldwide income. In general, tax follows accounting books with adjustment for tax purposes, e.g. generous depreciation periods and non-deductible costs.

Non-resident companies (i.e., neither their legal seat nor their place of effective management is located in Slovenia) are subject to limited tax liability, and as such, are liable to corporate income tax solely on specific types of Slovenian-sourced income. Practically speaking, non-residents are subject to taxes on income derived from business activities carried out through a Slovenian permanent establishment (the same as residents) and on income subject to a withholding tax (dividends, interest, royalties, lease payments for immovable property located in Slovenia, payments for the performance of artists and athletes, and payments for any services to an entity residing in a low-tax jurisdiction). In such cases, the withholding tax rate is 15 percent.

Foreign tax credit

Unilateral relief in the form of ordinary tax credit for foreign-sourced income is available. The excess tax credit may not be carried forward.

Wealth taxes

There are no wealth taxes in place at present.

Romania

The general CIT rate is 16%.
The taxable base for CIT purposes is determined by adjusting accounting profits for non-deductible expenses and non-taxable income.

Wealth taxes

There is no wealth tax in Romania.

2.2 Dividend regime (participation exemption)

Bulgaria	Croatia	Slovenia	Romania
National Dividends received from other resident companies are exempt from income tax, except for dividends distributed by REITs, as well as cases qualifying as hidden distribution of profit. *International* Inbound dividends derived by a Bulgarian resident are part of the taxable base of the receiving company and taxed at the normal CIT rate. Dividends distributed by foreign entities that are tax residents of an EU-member state, or a country, which is a party to the Agreement for the European Economic Area, are exempt from CIT except for cases qualifying as hidden distribution of profit and except for dividends from distribution of profits by EU or EEA based subsidiaries as far as such distributed amounts are expenses deductible for tax purposes at the level of the distributing subsidiary and/or lead to decrease of its taxable financial result regardless of how these amounts have been booked accounting-wise at the level of the distributing company. With regard to withholding tax on inbound dividends, local entities are entitled to a tax credit for any tax on dividends levied abroad, even if no treaty exists. The tax credit is limited up to the amount of the respective Bulgarian tax on dividends and is separately determined for each country.	Dividends payable to Croatian resident companies are not treated as taxable income for Croatian tax purposes. The above stated is applicable regardless of the capital ownership percentage and the holding period. Please note that the Croatian CIT Law provides a list of documents that need to be submitted if respective exemption is going to be utilized (the purpose of the documents is to prove the nature of the receipt). **Impact EU GAAR** Croatian CIT Law implemented Council Directive 2014/86/EU of 8 July 2014 which amended the Council Directive 2011/96/ EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States by prescribing that the CIT base can be reduced for income from dividends and shares in profit which were not treated as tax deductible expenses by their payer. Furthermore, CIT Law also specifically defines the tax and legal status of the dividends and shares in profit.	Domestic exemption: Under the domestic participation exemption regime, dividends and income similar to dividends derived by a resident corporation from participation in another Slovenian corporation (except hidden reserves that have not been taxed at the payer) are exempt from CIT, regardless of the capital ownership percentage and the holding period. International exemption: When calculating the tax base, the taxpayer may exempt received dividends and other similar income, (except hidden reserves that have not been taxed at the payer), if the dividend payer is: – a resident of an EU Member State for tax purposes under the law of that Member State and is not deemed to be a resident outside the EU due to a tax treaty with a non-Member State; and shall be subject to one of the taxes to which the common system of taxation, applicable in the case of parent companies and subsidiaries of different Members States applies, without the possibility of an option or of being exempt; or – a resident of non-EU Member State liable to tax comparable to the Slovenian CIT and not resident in a country or in the case of a business unit not situated in a country in which the general, average nominal corporate tax rate is less than 12.5% and if the state is mentioned on a list published by the Slovenian Ministry of Finance.	*National* Dividend payments between resident companies are subject to a 5% final withholding tax. This rate is cut down to 0% in case of a shareholding of minimum 10% maintained for at least one uninterrupted year. Dividends are tax exempt in the hands of the recipient. *International* Dividends received by a Romanian company from a non-resident company are included in the ordinary income of the recipient company and taxed at the general tax rate. However, under the domestic law, foreign-source dividends paid by a subsidiary from another EU Member State or a non-EU country with which Romania has concluded a double tax treaty, to its Romanian parent company are exempt from tax in Romania if the Romanian recipient company meets the following conditions: – it holds at least 10% of the distributing company's shares; – the holding has existed for an uninterrupted period of one year prior to the distribution date. Until the one-year period is met, dividends are subject to tax (at 16%). In the case of dividends received from other EU Member States, such tax can be claimed back later from the state.

Bulgaria	Croatia	Slovenia	Romania
Impact EU GAAR Because of the existing tax evasion rules in force having broader scope the EU GAAR was considered covered in the Bulgarian tax law with no need for amendments in that respect. Thus, no specific impact of the EU GAAR is expected.		The above provisions also apply to a non-resident recipient if the recipient's participation in the equity capital or management of the person distributing profits is connected with business activities performed by the non-resident in or through a permanent establishment in Slovenia. Resident corporation receiving the dividends, which are treated as tax exempt, is required to decrease the tax deductible expenses in the amount of 5% of the tax exempt dividends received. **Anti-abuse rules** The anti-abuse rule provides that under certain conditions dividends received or other participations on profit are not excluded from the tax base of the recipient. The anti-abuse rule applies in case the dividend payer is resident or the permanent establishment is located in a state where the general or average nominal corporate tax rate is lower than 12.5% and if the state is mentioned on a list published by the Slovenian Ministry of Finance. Not applicable to an EU member. In addition to the abovementioned SAAR, domestic general anti-abuse rules (see Section 5) exist.	**Impact EU GAAR** The Romanian Fiscal Code enforced on 1 January 2016, contains provisions which implemented the Parent-Subsidiary Directive GAAR word by word. The tax authorities' focus on scrutinising the applicability of tax exemptions under Parent-Subsidiary Directive could increase.

Bulgaria	Croatia	Slovenia	Romania
		Impact EU GAAR EU GAAR was implemented as per 1 January 2016. Dividend exemption shall not be granted, if: – dividend income is considered as deductible expense at the level of the payer or reduces his tax base, or – circumstances pursuant to domestic general anti-abuse rule (see section 5) exist, or – in the case of an arrangement or series of arrangements, having been put into place for the main or one of the main purposes of obtaining a tax advantage, whereby non-recognition of benefits may affect only one step or part of the arrangement.	

2.3 Gains on shares (participation exemption)

Bulgaria	Croatia	Slovenia	Romania
Capital gains on the sale of shares are included in the taxable base of resident companies and taxed at the normal CIT rate, except for capital gains from transfer of certain financial instruments (including of shares in collective investment schemes and national investment funds, and of shares, rights and government securities, performed on a regulated market within the meaning of the Law on Financial Instruments Market), which decrease the financial result. As of 1st of January 2021, the definition of transfer of financial instruments also includes the transactions in shares, effected on the market of a third country, which is equivalent to a regulated market and in respect of which the European Commission has adopted a decision regarding the equivalence of the third country's legal and supervisory framework.	Generally, capital gains on shares are included in the taxable basis as ordinary income (based on the accounting regulations). There is no exemption for capital gains realised on participations either in domestic or foreign companies. Capital gains generated by non-resident legal entity may be exempt from taxation in Croatia.	Generally, capital gains on shares are included in the taxable basis as ordinary income. There is no exemption for capital gains realised on participations either in domestic or foreign companies. The CIT Act provides for an exemption based on which 50% of realised capital gains may be exempt from taxation if the recipient company or permanent establishment has held more than 8% of the shares or voting rights in a company continuously for at least six months and at least one person was employed at this company full-time. In case the capital gains were realised from a company resident in a low tax jurisdiction (see criteria from participation exemption above) this exemption is not granted. In the case of liquidation or dissolution of a taxpayer or non-resident's business unit in Slovenia within a period of 10 years of establishment, at the time of dissolution the tax base shall be increased by the exempt share of profit for the period of the five previous tax periods. Legislation also provides for an exemption in the case where the company realises capital gains with the exchange of shares of a bank in Slovenia for shares in another Slovenian company (only the part received in cash is taxable).	Capital gains obtained from the sale of shares held in a Romanian legal entity or a foreign legal entity established in a state with which Romania has concluded a DTT are exempt from CIT, if the taxpayer has held at least 10% of the relevant entity's share capital for a minimal uninterrupted period of one year as of the date of share transfer. Otherwise, capital gains are treated as ordinary business income and taxed accordingly. **Liquidation** Income obtained by a Romanian company from the liquidation of another Romanian legal person or of a foreign legal entity established in a state with which Romania has concluded a DTT are exempt from CIT provided that it has held at least 10% of the liquidated entity's share capital for an uninterrupted period of one year. Otherwise, such income is subject to the general 16% CIT.

Bulgaria	Croatia	Slovenia	Romania
		There is also an exemption on taxation of capital gains realised with the disposal of shares, acquired on the basis of venture capital investments in a venture capital company, established by law which regulates venture capital companies. Such a profit is exempt from the tax base of the taxable person, if this company had the status of a venture capital company throughout the whole tax period and if this company held the status of venture capital company over the whole period of holding such a share of the taxpayer. The loss from the disposal of equity from this paragraph is not recognised.	

2.4 Losses on shares

Bulgaria	Croatia	Slovenia	Romania
Capital losses are deductible for tax purposes except for losses from transfer of certain financial instruments (including shares in collective investment schemes and national investment funds, shares, rights and government securities, performed on a regulated market within the meaning of the Law on Financial Instruments Market), for which the effect from the loss is neutralised through adjustment of the financial result.	Realised capital losses are tax deductible. Non-realised capital losses that are generated by the impairment of shares are not tax deductible.	Deductible capital losses may only be offset against chargeable capital gains realised in the current and following years. Capital losses incurred by a company may not be used to offset capital losses incurred by another company that belongs to the same group of companies.	Capital losses on shares as result of their sale or evaluation according to accounting regulations are deductible for CIT purposes, if the taxpayer has not held at least 10% of the relevant entity's share capital for a minimum uninterrupted period of one year. Otherwise, capital losses may not be deducted.

2.5 Costs relating to the participation

Bulgaria	Croatia	Slovenia	Romania
In principle, all expenses related to the business operations of the taxable persons and supported by sufficient documentation are tax deductible. Interest expenses would be regulated by the thin capitalisation rule and the rule for limitation of interest deduction (see Section 5).	The legislation does not provide for a specific regulation. The general rule is that an expense is generally deductible if it is wholly and exclusively incurred for the business activities of the company and in order to make profit (the law does not provide a distinction between taxable and non-taxable profit). See Section 5 with respect to the thin capitalisation restrictions. **Excessive interest** In accordance with the CIT Law, interest that is paid by a CIT taxpayer to a non-resident-related party is considered to be at arm's length (i.e. deductible for profit tax purposes) up to the rate prescribed by the Minister of Finance. For FY 2021, the Minister of Finance prescribed arm's length interest rate for related party financing of 3.00%, p.a. The respective interest rate applies to existing loans as well. Following from the above, any interest charged to a corporate profit taxpayer by a non-resident-related party which is in excess of the current 3.00% rate would not be deductible for Croatian CIT purposes. Additionally, the taxpayer can prove the arm's length character of interest charges (different from the published interest rates) in accordance with general transfer pricing rules.	Expenses in relation to the tax-exempt dividend or capital gains income are not deductible in an amount equalling 5% of the amount of dividends and profits which are exempt from the tax base of a taxpayer. See Section 5 for the thin capitalisation rules.	The legislation does not contain specific provisions on the deductibility of costs related to holding participation / shareholding. Such deductibility is currently debatable and open to various interpretations. At the same time, the law stipulates that expenses related to non-taxable income are not deductible. In this respect, the law provides for examples, which include costs related to dividends, where the latter are not taxable.

2.6 Currency exchange results

Bulgaria	Croatia	Slovenia	Romania
Currency exchange losses / gains from the valuation of monetary assets are considered deductible losses / taxable income for the purpose of adjustment of the financial result.	Currency exchange results are included in taxable income. The tax treatment of the realised / non-realised FX differences basically follows the accounting treatment.	Currency exchange results are fully included in taxable income.	Currency exchange results registered in accounts are treated as ordinary revenues/ expenses. The net foreign exchange losses are part of the exceeding borrowing costs which are subject to limited deductibility (see thin capitalization rules).

2.7 Tax rulings

Bulgaria	Croatia	Slovenia	Romania
There is no regime for binding advance rulings. However, it is common practice to direct written inquiries to the revenue authorities to solve an open question or get confirmation on a certain taxation practice or duty. The rulings of the Executive Director of the National Revenue Agency are not binding on persons outside the revenue administration. If, however, a taxpayer acts in accordance with a ruling and the ruling is later decided to be inconsistent with the law, no penalties (including interest) can be applied to the taxpayer.	Opinions issued by the Ministry of Finance or tax authorities are binding for the tax authorities. Binding information issued by the tax authorities may be requested in a specific and identified future transaction and is generally applicable only to such a transaction.	General opinions issued by the Financial Authorities of Republic of Slovenia are considered to be an interpretation of tax legislation. In practice, Financial Authorities of Republic of Slovenia follows general opinions. An advance tax ruling system, introduced in 2007, provides the legal basis for rulings granted by the Financial Authorities of Republic of Slovenia upon the request of a taxpayer on the tax or customs treatment of a specific transaction (excluding transfer pricing). With respect to transfer pricing, advance pricing agreements may be obtained from the Financial Authorities of Republic of Slovenia, agreeing the methodology, critical assumptions, and other appropriate criteria for defining transfer prices for specific transactions between associated persons prior to their implementation. Such agreements can be for a period of up to five years with the possibility of renewal. Binding rulings and advanced pricing agreements are both subject to fees.	Advance tax rulings and transfer pricing rulings may be issued by tax authorities. The rulings are binding on the tax authorities. Under the law, advance tax rulings are to be issued within three months and are subject to a fee of EUR 5,000 for large taxpayers and EUR 3,000 for other categories of taxpayers. Transfer pricing rulings are to be issued in 12 months (18 months if it refers to a bi/multilateral ruling) and are subject to fees up to EUR 20,000. In practice, the above-mentioned terms are usually prolonged. Although possible under the law, tax rulings have thus far seldom been obtained in practice as they are time consuming and administratively taxing.

2.8 Loss carry over rules

Bulgaria	Croatia	Slovenia	Romania
Carry back Loss carry back is not permitted in Bulgaria. **Carry forward** The ordinary losses may be carried forward to offset taxable profit earned in the five succeeding calendar years. In case of mergers / demergers the newly formed / surviving company is not allowed to carry forward losses formed by a merging company.	**Carry back** There is no carry back possibility in Croatia. **Carry forward** Losses may be carried forward for a maximum period of five years, unless otherwise provided for in the CIT Law. If the right to offset losses incurred in the process of mergers, acquisitions or divisions is transferred to legal successors during a tax period, the right to carry forward the loss begins after the expiry of the period in which the legal successor acquired the right to carry forward the loss. In the case of statutory changes (acquisitions, mergers, demergers, etc.) the legal successor is not entitled to utilise the tax losses carried forward of the legal predecessor if: – the legal predecessor did not perform any business activity for two tax periods before the statutory change; or – the business activity of the legal predecessor substantially changes in the course of two tax periods following the statutory change. The above rule also applies where there is a change of more than 50% in a company's ownership structure.	**Carry back** There is no carry back possibility in Slovenia. **Carry forward** Losses may be carried forward for an unlimited period. The reduction of the tax base due to tax losses from previous tax periods is allowed to the maximum amount of 50% of the tax base of the current tax period. However, losses from the current and previous years cannot be carried forward if a direct or indirect ownership of capital or voting power of the taxpayer changes for at least 50% during the tax period and taxable person entitled to loss carry forward: – does not carry on a business for at least two years before the change of ownership; or – substantially changes its business two years before or after change of the ownership (unless the change of business is done in course of restructuring necessary to save employment relationships or business as such). Pursuant to the amendments of CIT Act, introduced at the end of 2019, from 1 January 2020 the total reduction of tax base in a tax year (including both unutilized tax losses from previous years and tax incentives) is limited to 63% of the tax base of a current year.	**Carry back** Loss carry back is not permitted in Romania. **Carry forward** Losses may be carried forward for seven years.

2.9 Group taxation for CIT purposes

Bulgaria	Croatia	Slovenia	Romania
There is no group taxation regime for CIT purposes.	There is no group taxation regime for CIT purposes in Croatia.	There is no group taxation regime for CIT purposes.	There is no group taxation regime for CIT purposes. Starting 2022, corporate tax consolidation will be allowed, under certain conditions.

3. Withholding taxes payable by the holding company

3.1 Withholding tax on dividends paid by the holding company

Bulgaria	Croatia	Slovenia	Romania
Dividends paid to non-resident companies are subject to final withholding tax of 5%, unless a lower tax treaty rate applies. A special exemption from withholding taxation (save for cases of hidden distribution of profit) is provided for dividends distributed to companies that are tax residents of an EU Member State, or a country which is a party to the Agreement for the European Economic Area. **Liquidation / Share repurchase** Liquidation quotas are subject to withholding tax at the rate of 5% chargeable on the balance between the market value of the quotas and the documented acquisition price of the respective shares. This rule applies unless a tax treaty relief applies. A special exemption from withholding taxation (save for cases of hidden distribution of profit) is provided for liquidation quotas distributed to companies tax residents of an EU Member State, or a country which is a party to the Agreement for the European Economic Area. Income from liquidation quotas obtained by a contractual fund is not subject to withholding taxation.	In accordance with the CIT Law, a withholding tax at rate of 10% is generally required to be deducted in respect of dividend payments to non-residents. This rule applies to all dividends except dividends and shares in profit realised before 31 December 2000 and in the period from 1 January 2005 to 29 February 2012, regardless of when the payment is actually made. However, a valid DTT may reduce or eliminate any withholding tax liability if the foreign entity is a tax resident in a jurisdiction with which Croatia has a DTT in effect. In addition, please note that under the EU Parent-Subsidiary Directive, dividends will be exempt from the withholding tax if the participation / share of a parent company in a subsidiary account for at least 10% for an uninterrupted period of 24 months. **Impact EU GAAR** As regards the taxation on distribution of dividends and shares of profit between parent companies and subsidiaries of different Member States, a withholding tax shall not be due if dividends and shares of profit are distributed to a company having one of the forms subject to the common taxation system provided that the recipient is holding a minimum of 10% in the capital of a company distributing the dividend or shares of profit, and this percentage is held for an uninterrupted period of 24 months.	Paid to tax residents or to permanent establishments: dividends paid to domestic recipients (resident or permanent establishment of a non-resident company) are subject to a 15% withholding tax, but may be exempt from withholding tax if the recipient provides his tax number. Paid abroad: dividends paid to foreign recipients are subject to a 15% withholding tax. Under the EU Parent-Subsidiary Directive, dividends will be exempt from the withholding tax if the participation / share of a parent company in a subsidiary accounts for at least 10% for an uninterrupted period of 24 months. If dividends are paid before the expiration of the 24-month term, the exemption is granted if a bank guarantee for the withholding tax is provided. The EU Parent-Subsidiary Directive is applicable also to limited partnerships (k.d.), since they are treated as corporations for tax purposes. The exemption also applies to profit reserves that stem from the period before accession to the EU. Slovenian companies may pay out dividends to a company resident in other EU countries without charging withholding tax on dividends even if the criteria defined in the EU Parent-Subsidiary Directive (in Slovenia – at least 10%, at least 24 months) are not met, if the dividends received by the foreign company are subject to exemption from taxation in the country of residence.	Outbound dividends paid by Romanian companies are subject to withholding of 5% unless the EU Parent-Subsidiary Directive (see below) or a different treaty rate applies. Dividends distributed to companies resident in EU are exempt of tax providing that at the distribution moment the recipient holds a participation of at least 10% in the share capital of the distributing company for at least one continuous year (the EU Parent-Subsidiary Directive). Until the one-year period is met, dividends are subject to tax (at 5%) which can later be claimed back from the state. **Liquidation / Share repurchase** In case the liquidation share of a Romanian company is lower than the paid-in capital, there is no withholding on the paid-out amount. In the opposite case, the amount of the liquidation share exceeding the paid-in capital would be subject to withholding if remitted to non-residents, however the provisions of the tax treaties would prevail. Redemption of shares is not taxable as dividend.

Bulgaria	Croatia	Slovenia	Romania
Upon redemption / repurchase of shares, the company shall form a reserve in the amount of the nominal value of all the repurchased shares. This reserve may be distributed among the shareholders only in case of reduction of the capital by the amount of the repurchased shares, or may be used for increase of the capital. **Impact EU GAAR** Because of the existing tax evasion rules in force having broader scope the EU GAAR was considered covered in the Bulgarian tax law with no need for amendments in that respect. Thus, no specific impact of the EU GAAR is expected. **Impact ATAD – GAAR** Because of the existing tax evasion rules in force having broader scope the ATAD GAAR was considered covered in the Bulgarian tax law with no need for amendments in that respect. Thus, no specific impact of the ATAD GAAR is expected. As per such existing tax evasion rules where one or more transactions, including between unrelated parties, have been concluded under terms and conditions whose fulfilment leads to tax evasion, the taxable amount shall be determined ignoring said transactions, certain terms thereof or the legal form thereof and taking into consideration the taxable amount that would be calculated as a result of a customary transaction of the relevant type at market prices and intended to achieve the same economic result but which does not lead to tax evasion. Certain specific cases are also outlined by law as tax evasion on a non-exhaustive basis.		The criteria that should be met in such a case by the Slovenian company paying the dividends are that it receives a statement by the recipient company that it may exempt the dividends paid from Slovenia from its taxable basis (e.g. it will not be able to deduct the withholding tax paid in Slovenia from the tax liability in the resident country) and that the certificate of the recipient tax residency in another EU member state is attached. Treaty rates may be used if the payer of dividends receives a decision of tax office that the recipient is entitled to treaty benefits before the payment is made. Otherwise the refund must be requested by the recipient of the dividends. **Liquidation / Share repurchase** Liquidation proceeds may be treated as dividend and are subject to dividend withholding tax upon distribution. **Impact EU GAAR** EU GAAR was implemented as per 1 January 2016. No dividend withholding tax exemption will be granted, if: – circumstances pursuant to domestic general anti-abuse rule (see Section 5) exist; or – in the case of an arrangement or series of arrangements, having been put into place for the main or one of the main purposes of obtaining a tax advantage, whereby non-recognition of benefits may affect only one step or part of the arrangement.	**Impact EU GAAR** The Romanian Fiscal Code enforced on 1 January 2016, contains provisions which implemented the Parent-Subsidiary Directive GAAR word by word. The tax authorities' focus on scrutinising the applicability of tax exemptions under Parent-Subsidiary Directive could increase. **Impact ATAD – principal purpose test** Certain ATAD provisions have been transposed into the Romanian tax law as of January 2018, including the general anti-abuse rule applicable to an arrangement or a series of arrangements which, with regard to all relevant facts and circumstances, are not genuine, having been undertaken for the main purpose of, or having as one of the main purposes, obtaining a tax advantage that defeats the object or purpose of the applicable tax law. Specifically, the above-mentioned arrangements are to be disregarded when calculating the tax liabilities attributed to a taxpayer.

3.2 Withholding tax on interest paid by the holding company

Bulgaria	Croatia	Slovenia	Romania
In general, interests paid to non-residents are subject to a final withholding tax at a rate of 10%, unless a lower treaty rate applies. In order to benefit from treaty benefits (i.e. lower withholding tax rates), the recipient of the income must acquire an advance approval (tax clearance) from the Bulgarian revenue authorities. A foreign tax resident of an EU country or a country that is a party to the Agreement for the European Economic Area and is liable for payment of Bulgarian withholding tax on interest, royalties, capital gains, etc. has the option to recalculate the tax due. The tax that would be due after the recalculation is equal to the tax that a local Bulgarian entity would be liable to pay (i.e. the foreign resident shall be entitled to deduct expenses related to the generated income, etc.) This right is exercised through filing an annual declaration form. The above option is not available to residents of non-EU-countries that are parties to the Agreement for the European Economic Area which have not executed a tax treaty with Bulgaria in effect, or the treaty executed does not contain provisions for exchange of information or cooperation upon collection of taxes.	In accordance with the CIT Law, a withholding tax of 15% is generally required to be deducted in respect of payments made for interest on borrowings (excluding borrowings from financial institutions) to non-residents. However, a valid DTT may reduce or eliminate any withholding tax liability if the foreign entity is seated in a jurisdiction with which Croatia has a DTT in effect. In addition, please note that under the EU Interest and Royalties Directive the interest payments may be exempt from withholding tax provided that at least 25% participation is held for a period of at least 24 months. **Impact ATAD – GAAR** Croatian CIT Regulations provide general provision pursuant to which rights provided by the CIT legislation will not be applicable to. Non-authentic arrangements (arrangements set up to avoid payment of taxes and not for valid commercial reasons).	Interest paid to non-residents is subject to a withholding tax of 15%. Under the EU Interest and Royalties Directive the interest payments may be exempt from withholding tax provided that at least 25% participation is held for a period of at least 24 months. Treaty rates may be used if the payer of interest receives a decision of financial office that the recipient is entitled to treaty benefits before the payment is made. Otherwise the refund must be requested by the recipient of the interests. **Impact ATAD – GAAR** Regarding the impact of the GAAR under ATAD, see section 3.1 above.	In general, interest paid to non-residents is subject to a final withholding tax of 16%, unless a lower treaty rate applies. A 50% tax rate applies to interest paid to a state with which Romania has not concluded a legal instrument under which the exchange of information can be performed, if such transaction qualifies as artificial. Interest obtained from Romania by companies resident in EU is exempt from withholding tax provided that the beneficial owner of interest has held at least 25% in the share capital of the payer for at least two continuous years ending as of the date of interest payment. **Impact ATAD** Certain ATAD provisions have been transposed into the Romanian tax law as of January 2018, including the general anti-abuse rule applicable to an arrangement or a series of arrangements which, with regard to all relevant facts and circumstances, are not genuine, having been undertaken for the main purpose of, or having as one of the main purposes, obtaining a tax advantage that defeats the object or purpose of the applicable tax law. Specifically, the above-mentioned arrangements are to be disregarded when calculating the tax liabilities attributed to a taxpayer.

Bulgaria	Croatia	Slovenia	Romania
Interest and royalty income payable by a Bulgarian tax resident entity to an associated company from another Member State shall enjoy full exemption from Bulgarian withholding tax in compliance with the Interest and Royalty Directive (Directive 2003/49/EC). For purposes of application of the exemption, the law provides that one entity is considered associated with another entity should one of the following conditions be fulfilled as of accrual of the income for a preceding uninterrupted period of at least two years: – Entity (A) holds at least 25% in the capital of entity (B). – Entity (B) holds at least 25% in the capital of entity (A). – A third entity (C), which is either a local company or a company tax resident of another Member State, holds at least 25% in the capital both of entity (A) and entity (B). Interest and royalty income might be exempt from withholding tax prior to the expiration of the minimum two-year term in case ownership over the required minimum of share capital is not interrupted as of the moment of accrual of the income. However, if the possession of the required minimum capital is interrupted prior to the expiration of the minimum two-year term, the general rate of 10% shall apply to the interest income and royalties.			

Bulgaria	Croatia	Slovenia	Romania
The withholding tax due shall be adjusted as if the tax rate was 10%. In relation to the withholding tax due, default interest shall accrue for the period as of the date on which the withholding tax should have been paid and the date of its effective payment. Foreign entities that meet the requirements for exemption, but nevertheless have their interest and royalty income levied at 10%, could request and get a refund of overpaid tax not later than one year of the request thereof. The relevant companies must have a legal form listed in the EU Interest and Royalties Directive and be subject to a CIT without the option for exemption. Whenever the beneficiary of the income is a permanent establishment of a foreign entity, the exemption shall be applied in case – such permanent establishment is established in another EU Member State and is a permanent establishment of foreign entity from a Member State; and – the local payer of the income is associated with the foreign entity to whose permanent establishment the income is paid.			

Bulgaria	Croatia	Slovenia	Romania
In addition full tax exemption is available also for (i) interest income of foreign corporate lenders under a loan extended to the State or the municipalities, on which no bonds will be issued, as well as for (ii) interest income of foreign corporate investors from bonds or other debt securities, issued by the State or the municipalities or local entities and traded on a regulated market in Bulgaria or in other Member State of the EU or in a state party to the EEA Agreement and (iii) interest income of foreign lender issuer of bonds or other debt securities when he is an EU/EEA tax resident who has issued the bonds / debt securities with the aim to lend the proceeds to local entity and the bonds / debt securities are admitted for trade on a regulated market in Bulgaria or in other Member State of the EU or in a state party to the EEA Agreement. **Impact ATAD-GAAR** See comment re Impact ATAD - GAAR in Section 3.1.			

3.3 Withholding tax on royalties paid by the holding company

Bulgaria	Croatia	Slovenia	Romania
Royalties paid to non-residents are subject to a final withholding tax at a rate of 10%, unless a lower treaty rate applies following a tax clearance procedure. A foreign tax resident of an EU-country or a country that is a party to the Agreement for the European Economic Area, liable for payment of Bulgarian withholding tax on interest, royalties, capital gains, etc. has the option to recalculate the tax due. The tax that would be due after the recalculation is equal to the tax that a local Bulgarian entity would be liable to pay (i.e. the foreign resident shall be entitled to deduct expenses related to the generated income, etc.) This right is exercised through filing an annual declaration form. The above option is not available to residents of non-EU countries that are parties to the Agreement for the European Economic Area which have not executed a tax treaty with Bulgaria in effect, or the treaty executed does not contain provisions for exchange of information or cooperation upon collection of taxes. With reference to the implementation of the EU Interest and Royalties Directive, as of 1 January 2015 royalties are exempt from withholding tax, if the respective qualifying requirements have been met.	In accordance with the CIT Law, a withholding tax of 15% is generally required to be deducted in respect to the payments made for royalties and other intellectual property rights to non-residents. However, a valid DTT may reduce or eliminate any withholding tax liability if the foreign entity is seated in a jurisdiction with which Croatia has a DTT in effect. In addition, please note that under the EU Interest and Royalties Directive the interest payments may be exempt from withholding tax provided that at least 25% participation is held for a period of at least 24 months. **Impact ATAD – GAAR** Croatian CIT Regulations provide general provision pursuant to which rights provided by the CIT legislation will not be applicable to non-authentic arrangements (arrangements set up to avoid payment of taxes and not for valid commercial reasons).	Royalties paid to non-residents are subject to 15% withholding tax, unless reduced by virtue of tax treaties. Under the EU Interest and Royalties Directive the royalty payments may be exempt from withholding tax provided that a 25% participation is held for a period of at least 24 months. Treaty rates may be used if the payer of royalties receives a decision of financial office that the recipient is entitled to treaty benefits before the payment is made. Otherwise the refund must be requested by the recipient of the royalties. **Impact ATAD – GAAR** Regarding the impact of the GAAR under ATAD, see section 3.1 above.	Royalties paid to non-resident companies are subject to a 16% final withholding tax, unless a lower treaty rate applies. A 50% tax rate applies to royalties paid to a state with which Romania has not concluded a legal instrument under which the exchange of information can be performed, if such transaction qualifies as artificial. See information in Section 3.2 for the implementation of the EU Interest and Royalties Directive. The same conditions apply. **Impact ATAD – GAAR** Certain ATAD provisions have been transposed into the Romanian tax law as of January 2018, including the general anti-abuse rule applicable to an arrangement or a series of arrangements which, with regard to all relevant facts and circumstances, are not genuine, having been undertaken for the main purpose of, or having as one of the main purposes, obtaining a tax advantage that defeats the object or purpose of the applicable tax law. Specifically, the above-mentioned arrangements are to be disregarded when calculating the tax liabilities attributed to a taxpayer.

Bulgaria	Croatia	Slovenia	Romania
The qualifying requirements as to associated parties, minimum holding period and equity participation are the same as outlined for interest payments in Section 3.2 above. In addition to the exceptions provided for in Article 4 of the Directive, Bulgarian law sets forth three additional exceptions to the application of the exemption from withholding tax on interest and royalties and the entitlement to tax refund in case of withheld tax subject to exemption, namely when the income: – represents expenses of a permanent establishment in Bulgaria not deductible for tax purposes, save for expenses for interests which are regulated by the thin cap rule; – is accrued by a foreign entity from a country which is not a Member State, through a Bulgarian permanent establishment of such foreign entity; – is from transactions where the main motive or one of the main motives for execution of the transaction is deviation from or evasion of taxation. **Impact ATAD – GAAR** See comment re Impact ATAD - GAAR in Section 3.1.			

4. Non-resident capital gains taxation – domestic legislation and tax treaties

Bulgaria	Croatia	Slovenia	Romania
Capital gains from any transaction on shares and other securities issued by Bulgarian companies are included in the resident company's ordinary tax base (except for gains from sales of financial instruments such as shares in collective investment schemes and national investment funds, shares, rights and government securities, performed on a regulated market within the meaning of the Law on Financial Instruments Market which are exempt). Most tax treaties, to which Bulgaria is a party, give the right to charge gains from the sale of a shareholding interest to the state of residency of the receiver of this income. Foreign beneficiaries are subject to a 10% withholding tax rate, unless a treaty relief applies.	Capital gains of a non-resident corporation resulting from the alienation of a participation in a Croatian corporation are not taxable in Croatia.	Non-resident companies are subject to income tax in respect of Slovenian sourced income. Permanent establishments of foreign corporations are taxed on their income having source in Slovenia (costs attributable to the permanent establishment are also recognised). Capital gains from the sale of a participation in a company resident in Slovenia are considered as Slovenian-sourced income. However, to the extent the capital gains are not attributable to a permanent establishment, the capital gain is effectively not taxed, since there are no procedural rules on how the tax should be levied. Under most tax treaties concluded by Slovenia the right to tax the capital gains from the alienation of the shares is allocated to the resident state.	Capital gains derived by a non-resident company without a Romanian permanent establishment from the sale of immovable property located in Romania are taxable at the general CIT rate. See Section 2.3 for the taxation of capital gains derived by a non-resident company from the sale of shares in a Romanian entity. The following types of income are not subject to Romanian withholding tax: – income derived by non-resident collective placement bodies without legal personality from the transfer of securities or shares held directly or indirectly in a Romanian legal entity; – income derived by non-residents on foreign capital markets from the transfer of shares held in Romanian companies or securities issued by Romanian residents. Most tax treaties of Romania allocate the right to tax gains from the sale of a shareholding interest to the state of residency of the receiver of this income. Nevertheless, several tax treaties allocate the right to tax gains from the sale of a shareholding interest in a real estate company to the state where the said real estate is located (i.e. Romania).

Bulgaria	Croatia	Slovenia	Romania
			Under the ATAD rules, implemented in the domestic law on 1 January 2018, in the context of a transfer of assets, tax residency and/or economic activity carried out through a permanent establishment for which Romania loses the right to tax, if the market value of the assets transferred is higher than their tax value, the difference represents a profit subject to 16% CIT.

5. Anti-abuse provisions / CFC rules

Bulgaria

CFC rules

CFC rules were introduced and entered in force as of 1 January 2019 as a result of implementation of Council Directive (EU) 2016/1164 (ATAD).

The new taxation regime subjects to taxation undistributed and non-taxable in Bulgaria profit of foreign companies controlled by local corporate tax residents. Controlled foreign companies that fall under such new regulation include formations (legal entities or legal contractual arrangements, including companies, partnerships, trusts or foundations) or permanent establishment ("PE") in a foreign country in which a Bulgarian corporate tax resident has direct or indirect participation exceeding:

1) 50 per cent of the voting rights,
2) 50 per cent of the share capital, or
3) has the right to receive more than 50 per cent of the profit.

However, in order such specific taxation to apply the corporate income tax actually paid by the foreign formation/PE shall be lower than the difference between the corporate income tax which would have been charged by the formation/PE under the Bulgarian law and the tax on the profit of the formation/PE actually paid.

Croatia

CFC rules

There are CFC rules introduced in line with ATAD.

Transfer pricing rules

The Croatian CIT Law prescribes that all business transactions between related parties, one of which is a resident while the other is a non-resident, must be effected at arm's length, that is, at 'fair market value'.

Following from this principle, should a company through a transfer pricing transaction pay more for a service to a non-resident-related party than what would be considered a 'fair market value' in accordance with the Croatian CIT law, then the excess amount of the transaction would not be a deductible expense for the resident company for CIT purposes.

Please note that the Croatian taxation legislation contains a very broad definition of 'related party', as it defines 'related parties' as parties whereby one directly, or indirectly, participates in the management, supervision or capital of the other (and on that basis may control and/ or influence the prices to be agreed upon in a certain transaction); or, where the same persons (one of which is a Croatian resident company and the other one is a non-resident company) participate in the management, supervision or capital of another company.

The transfer pricing rules basically follow the OECD Transfer Pricing Guidelines.

Slovenia

CFC rules

Based on ATAD, CFC rules were implemented and applicable from 1 January 2019. This is a new rule that Slovenia has not known so far.

The main purpose of the rule is the attribution of the subsidiary's passive income from taxably more favorable jurisdictions to the parent company.

A taxpayer shall treat an entity as a controlled foreign company where the following conditions are met:

– the taxpayer by itself, directly or indirectly, participates therein with more than 50% of the voting rights, or has, directly or indirectly, more than 50% of the capital or is entitled to more than 50% of that entity's profits; and
– corporate income tax on profits actually paid by such entity is lower than half of the corporate income tax that would be paid for this profit under the CITA-2 rules.

Only the undistributed profits generated from so called passive income of a controlled foreign company (interest, dividends, income from property rights (royalties), etc.), which are listed exhaustively in the new Article 67.i of the CITA-2, shall be attributed to the tax base of the parent company.

Romania

CFC rules

On 1 January 2018, new rules have been introduced regarding the taxation of controlled foreign companies, whereby a taxpayer should include in its taxable base, in proportion with its holding in the controlled foreign company, the latter's non-distributed income derived from the following categories:

(i) Interest or any other income generated by financial assets;
(ii) Royalties or any other income generated from intellectual property;
(iii) Dividends and income from the disposal of shares;
(iv) Income from financial leasing;
(v) Income from insurance, banking and other financial activities;
(vi) Income from invoicing companies that earn sales and services income from goods and services purchased from and sold to associated enterprises, and add no or little economic value.

A company is considered a controlled foreign company under the conditions provided in ATAD.

Thin capitalisation rules

Under the ATAD provisions implemented in the Romanian law on 1 January 2018, and amended on 13 January 2019, the exceeding borrowing costs (as defined in ATAD) above the deductible EUR 1,000,000 threshold, are deductible within the limit of 30% of EBITDA.

Bulgaria

A carve-out to this taxation regime is allowed, even where said conditions were met if the controlled foreign formation or PE carries on a substantive economic activity supported by staff, equipment, assets and premises, and the local resident controlling company is in a position to evidence these circumstances.

The taxation of a controlled foreign company shall be achieved by way of the resident controlling company increasing its taxable financial result for the current year with the undistributed taxable profit of the foreign formation, respectively with the taxable profit accumulated by the PE for the same tax period. The respective taxable profit of the foreign formation/PE shall be determined in accordance with the Bulgarian law and shall increase the taxable financial result of the local resident controlling company for the tax period, during which the tax period of the controlled foreign company ends, in cases the two tax periods are different.

The taxable result of the local tax resident shall be increased proportionally to the highest of the participations in the voting rights, in the share capital or in the profit of the foreign formation as well as in proportion to the period from the respective tax period of the foreign formation during which the requirements qualifying it for controlled foreign company were fulfilled.

Croatia

Thin capitalisation rules

The Croatian CIT Law provides that interest on loans provided by shareholders with a 25% or more holding in a Croatian company is not deductible for CIT purposes if the amount of the loan exceeds four times the amount of the equity holding for that shareholder (i.e. a 4:1 safe harbour). The Croatian CIT regulations clarify that the non-deductibility treatment is applicable to interest that corresponds to the amount of a shareholder's loan in excess of the safe harbor.

The thin capitalisation provisions also apply to loans granted from third parties that are guaranteed by a direct shareholder.

The above-mentioned thin capitalisation rules do not apply to shareholders that are financial institutions (as defined by Croatian legislation).

Please note that as of 2014, thin capitalisation provisions apply to financing provided by all related parties (and not only to direct shareholders).

Impact ATAD – CFC legislation / thin capitalisation rules / EBITDA / hybrid mismatch rules

CFC legislation: If certain criteria are met, profits of foreign companies which are controlled by a Croatian company are attributed to and taxed at the level of the Croatian entity.

Slovenia

There are two exceptions in this regard. Namely, the attribution is not required:

- if it is clear from the facts and circumstances that a controlled foreign company carries out substantive economic activity supported by personnel, equipment, assets and premises; or
- if one third or less of the income accruing to the controlled foreign company falls within the categories under first paragraph of Article 67.i.

The profit to be included in the tax base of the parent company shall be calculated in accordance with the CITA-2 rules and shall be taken into account in proportion to the participation in a controlled foreign company.

Profit shall be included in the tax base of the parent company in the tax period, in which the tax period of a con-trolled foreign company ends.

Losses of a controlled foreign company are not included in the tax base of the parent company but can be carried forward in accordance with CITA-2 rules and taken into account in subsequent tax periods. CITA-2 also provides for rules to eliminate possible double taxation.

Anti-abuse rule

General anti-abuse rule is prescribed in the Tax procedure Act. Subjects of taxation, the circumstances and facts that are essential for taxation shall be evaluated according to their economic substance.

Romania

If this calculation basis is negative or equal to zero, the said costs are non-deductible and are reported to further periods for an unlimited time frame under the same deduction conditions.

Standalone entities (as defined in ATAD) have the right to fully deduct the exceeding borrowing costs in the fiscal period in which they are incurred.

Transfer pricing rules

Related persons for transfer pricing rules are:

- parties who have a direct or indirect (including the participation of an associated person) share of at least 25% of the value / number of shares or voting rights in the other party or controls it; or
- parties in which a third person (an individual or a legal entity) holds directly or indirectly (including the participation of associated persons) at least 25% of the value / number of shares or voting rights.

Related parties' transactions should be performed at arm's length. Taxpayers are obliged to prepare a transfer pricing file either annually or upon the tax authorities' request, depending on their category (large or medium / small taxpayer) and the amount of related-party transactions.

Bulgaria

The incurred taxable loss of a controlled foreign company will be available for deduction from the profits of that same company or from the profit of another controlled company in the same foreign country in the next five years (but not from the profit of the local resident controlling company).

Resident controlling companies are imposed with the obligation to maintain a register of controlled foreign companies having specific contents, as stipulated by law and an obligation such register to be provided to the tax authorities upon request.

Thin capitalisation rules

The deduction of interest paid on loans taken from shareholders or third parties (minus the total amount of interest income received) is limited to 75% of the positive financial result (without taking into account interest income and expenses) of the tax obligor.

However, the rules only apply if the borrowed capital of the company exceeds the equity of the company at 3 to 1 debt-to-equity ratio. Interest on bank loans and interest paid under financial lease agreements is only subject to thin capitalisation rules where the arrangement is between related parties. The thin cap rules do not apply to credit institutions.

Effective from 1st of January 2019 a new interest limitation rule was introduced as a result of implementation of ATAD.

Croatia

These rules only apply to non-distributed profits of the CFC arising especially from the following categories of passive income:

- interest or any other income generated by financial assets,
- royalties or
- any other income generated from intellectual property, dividends, financial leasing, income from insurance and banking, etc.

An exemption is available if a CFC carries out substantial economic activity through engagement of staff, equipment, property and buildings, as evidenced by relevant facts and circumstances. If only one third or less of the total income of the foreign entity falls within the categories of passive income as listed above, the foreign entity will not be considered as a CFC.

Hybrid mismatch rules: Croatia implemented hybrid mismatch rules to address double deduction and deduction without inclusion mismatches in compliance with the EU Anti-Tax Avoidance Directive as amended by Council Directive (EU) 2017/952 (ATAD2), which includes provisions for the disallowance of a deduction in the case of double deduction mismatch or when a recipient does not include the income in its tax base, and provisions for the inclusion of income that would otherwise lead to a mismatch if a corresponding deduction is not disallowed in the payer's jurisdiction.

Slovenia

Legal form of the transaction might be ignored where the main purpose of establishing such a legal form is reducing tax liability. Thus, artificial or fictitious structures shall be disregarded for tax purposes. In addition, the GAAR under ATAD applies from 1 January 2019 on.

Transfer pricing rules

Transactions between associated entities must be at arm's length. The transfer pricing rules basically follow the OECD Transfer Pricing Guidelines.

Thin capitalisation rules

The thin capitalisation rule is applicable.

The debt-equity ratio is 4:1. Interest exceeding the ratio is not deductible for CIT purposes.

The thin capitalisation rule is applicable for associated enterprises that directly or indirectly hold at least 25% of business share or voting rights in a tax payer. From 1 January 2014 the thin capitalisation rule applies also for sister companies.

The thin capitalisation rule applies also in cases where an associated enterprise gives a guarantee for loans received by a Bank or third party.

Romania

Failure to do so within the established deadline is subject to a fine of maximum RON 14,000, the tax authorities being also entitled to estimate the applied transfer prices and to assess the additional tax liabilities accordingly, if any.

Substance over form

In determining the amount of any tax or fee, the tax authorities may disregard a transaction that does not have an economic purpose or may reclassify the form of a transaction to reflect its proper economic substance.

Also, in case of transactions qualified as artificial (i.e. transactions which do not have economic substance and cannot be used within the frame of usual economic activities, performed with the main purpose to avoid taxes or to obtain tax advantages) the provisions of the relevant double tax treaties (DTTs) are not applicable.

Impact ATAD – CFC legislation / thin capitalisation rules / EBITDA / hybrid mismatch rules

The new rules concerning CFCs and thin capitalization need to be taken into account in structures involving foreign subsidiaries of Romanian companies and when implementing financing transactions. The hybrid mismatch rules have been transposed into the Romanian law in February 2020.

Bulgaria	Croatia	Slovenia	Romania
The new rule shall apply only if the exceeding borrowing costs (understood as the amount by which the total deductible borrowing costs of a taxpayer exceed taxable interest revenues) for the respective year exceed the threshold of Bulgarian levs equivalent of 3,000,000 Euro. When such threshold is not exceeded it is only the currently existing thin capitalization rule explained above, which remains applicable (as far as debt to equity ratio exceeds 3:1). The rule sets a limit of deductibility for tax purposes of exceeding borrowing costs of up to 30 percent of EBITDA. However, unrecognized exceeding borrowing costs could be carried forward without limitation in time for future years. The new rule does not apply to credit institutions. **Transfer pricing rules** Transfer pricing guidelines of the Bulgarian tax authorities are published and available on the internet site of the National Revenue Agency. Regulations in respect to transfer pricing documentation apply as of 1st of January 2020. Under the new regulations qualifying local legal entities and Bulgarian permanent establishments of foreign companies will be obliged to prepare and maintain local file if related party transactions exceeding certain thresholds are conducted. As of 1st of January 2021, the transfer pricing documentation should be prepared no later than 30th June of the year following that to which the Local File relates.	The above provisions entered into force on 1 January 2020, while provisions regarding reverse hybrid mismatches enter into force on 1 January 2022. EBITDA rules: additional interest limitation rules are introduced. Interest and other borrowing costs with respect to borrowings received from abroad will be tax deductible up to the higher of the following two amounts: – 30% of the EBITDA or – EUR 3,000,000.	The thin capitalisation rule is not applicable if a taxpayer is able to prove that he may get the loan from a non-associated enterprise under comparable conditions. **Impact ATAD – CFC legislation** Slovenia implemented CFC rules as consequence of the ATAD as described above. **Impact ATAD – thin capitalisation rules / EBITDA** Slovenian law stipulates a thin capitalisation rule. According to Article 11 para 6 EU ATAD, Member States stipulating national rules to prevent BEPS which are equally effective in this regard are granted a transitional period until 1 January 2024. Slovenia applied for transitional period and the EU commission approved it. Thus, no amendments of thin capitalization rules are envisaged till 1 January 2024. **Impact ATAD – hybrid mismatch rules** Slovenia already stipulates a provision to counter special forms of hybrid mismatch arrangements as laid down in Parent-Subsidiary Directive. Moreover, Slovenia has implemented hybrid mismatch rules as set forth in Article 9 of EU ATAD and EU Directive 2017/952.	

Bulgaria	Croatia	Slovenia	Romania
Qualifying enterprises who would be under the obligation to prepare local file would be those having balance sheet value of assets exceeding BGN 38,000,000 and net income from sales exceeding BGN 76,000,000 or average number of personnel for the respective year of 250 persons. If part of multinational group, the respective obliged party shall also be under the obligation to have available master file prepared by the ultimate parent company or another group company. Both files should have specific content as envisaged in law. The revenue authorities may make an adjustment to the profit arising from a transaction between related or between unrelated persons if such persons have concluded the transaction under conditions that are not at arm's length. Transfer pricing rules also apply to branches or permanent establishments of non-resident companies in Bulgaria. **Impact ATAD – CFC legislation** Local companies will now have to consider the CFC rules when preparing their tax returns and have in mind that relying on the exemption from the CFC taxation for a substantive economic activity supported by staff, equipment, assets and premises is carried out by the controlled foreign formation or PE might require providing related evidence.		Pursuant to the CIT Act amendments, it is envisaged that from 1 January 2020 the following rules related to hybrid mismatches will apply: – When hybrid mismatches will lead to a double deduction the requesting (investing) taxpayer will not be granted a deduction in Slovenia unless the taxpayer compensates through inclusion of the tax basis in the current or in the next tax year in both member states where the mismatch occurred. The exact same will occur if the taxpayer is the actual payer. – When hybrid mismatches lead to deductions without inclusion, the deduction shall be denied in Slovenia if Slovenia is the payer jurisdiction. If however, the payer jurisdiction does not deny the deduction the amount of payment that would otherwise give rise to a mismatch outcome shall be included in the base income of Slovenia. **Impact ATAD – Exit taxation** Slovenia has implemented exit taxation as per the rules set out in Article 5 of EU ATAD. Effective January, 2020, a taxpayer shall be subject to a tax when transferring assets in such a way that Slovenia will lose the ability to tax them either through: – transferring assets to an outside permanent establishment or vice versa, – transferring the taxpayer's tax residency, – or transferring its permanent establishment from Slovenia to other country.	

Bulgaria	Croatia	Slovenia	Romania
Impact ATAD – thin capitalisation rules / EBITDA As noted above, under the Bulgarian thin cap rule the deduction of interest paid on loans taken from shareholders or third parties (minus the total amount of interest income received) is limited to 75% of the positive financial result (without taking into account interest income and expenses) of the tax obligor, i.e. 75% of its EBITDA. In view of the ATAD interest limitation rule (Article 4 ATAD) the limit on the deductible exceeding borrowing costs is significantly lowered to 30% from EBITDA. The new rule also sets out interaction with the thin cap rule. Namely, when the conditions for both the new rule and the thin cap rule are met and the unrecognized exceeding borrowing costs are higher than unrecognized interest expenses under the thin cap rule, unrecognized exceeding borrowing costs shall not be recognized for tax purposes, where in this case the thin cap regulation would not apply. In cases where the unrecognized exceeding borrowing costs are lower than the unrecognized interest expenses under the thin capitalization rule, not recognized for tax purposes would be not only the unrecognized exceeding borrowing costs but also the difference between the unrecognized interest expenses under the thin cap rule and the unrecognized exceeding borrowing costs.		The tax amount will be levied on the amount equal to the market value of the transferred assets, reduced for the assets' tax value (a tax on the so called "hidden reserve").	

Bulgaria	Croatia	Slovenia	Romania
Impact ATAD – hybrid mismatch rules and exit taxation Hybrid mismatches, tax residency mismatches and exit taxation rules came into force as of 1st of January 2020. Amendments implementing reverse hybrid mismatches were not introduced where it is only highlighted that they shall be implemented no later than 31st December 2021.The rules targeting reverse hybrid mismatches are expected to be applied as of 1st January 2022. **Hybrid Mismatches** The CITA rules introducing the mandatory hybrid mismatches and exit taxation regulations under Council Directive (EU) 2016/1164 of 12 July 2016 and Council Directive (EU) 2017/952 of 29 May 2017 (ATAD 2) restricting the opportunities for aggressive tax planning and tax avoidance came in force as of 1 January 2020. The new rules are aimed at elimination of tax consequences from practices for avoidance of taxation stemming from mismatches in the legal qualification of payments between different jurisdictions or hybrid mismatch.			

Bulgaria	Croatia	Slovenia	Romania
Pursuant to the rules, a hybrid mismatch would be present in case of a payment (for example under a financial instrument) by a taxable person to its related enterprise (or permanent establishment or hybrid formation), which is tax recognized cost of the payer, but does not lead to increase of the taxable result of the recipient (deduction without inclusion) as well as when the payment is tax recognized cost at both the payer and the recipient (double deduction). Should hybrid mismatch be present accounting costs of the taxable person, acting as payer, leading to deduction without inclusion or to double deduction shall not be tax recognized and they will increase the accounting result for tax purposes. On the other hand, when a taxable person is recipient under a hybrid mismatch leading to deduction without inclusion, the amount of such payment shall be recognized for tax purposes either as accounting income, recognized for tax purposes or as an amount, which increases the accounting result when determining the taxable result, as far as such payment is deducted in the state of the payer. This rule will not apply in certain cases. To fall within the scope of the anti-hybrid rules, these hybrid mismatches must occur between “associated enterprises” or “parties to a structured arrangement”.			

Bulgaria	Croatia	Slovenia	Romania
With the term “parties to a structured arrangement”, unrelated parties are targeted that form part of a “structured arrangement” (very broad term), in which the hybrid mismatch advantage is priced, or the hybridity is part of the set-up of the arrangement. If the taxpayer or its group that qualify as parties to a structured arrangement do not benefit from the mismatch, and can reasonably not be expected to be aware of this mismatch, the rules will not apply. **Tax Residency Mismatches** Tax residency mismatches are in force as of 1 January 2020 as well. Hence, when a Bulgarian taxable person qualifies as taxable person to a second jurisdiction payments, costs and loses also recognized in the second jurisdiction, will not be recognized for tax purposes in Bulgaria, as far as deduction of these amounts against an income not qualifying as double included income is allowed pursuant to the legislation of the second jurisdiction. In case the second jurisdiction is an EU one payments, costs and loses will not be deductible in case the person is a taxable person for the second jurisdiction pursuant to a double tax treaty. **Exit Taxation** The specific rules for determination of the taxable financial result in transfers between a permanent establishment (“PE”) in the country and another part of the enterprise outside the country existing so far, were replaced by the rules for exit taxation, in force as of 1 of January 2020.			

Bulgaria	Croatia	Slovenia	Romania
The purpose of exit taxation is to guarantee that capital gain created in the country shall be taxed, notwithstanding that such gain is still not realized as at the moment of transfer of assets or activity. The rules so far applied to transfers between a PE in the country and another part of the same enterprise located outside the country. According to the new regime, obligation for taxation might occur when Republic of Bulgaria loses entirely or partly (as defined in law) its right to tax the result from subsequent disposal of transferred assets/activity in the following cases: – transfer of assets or activity from its head office in the country towards a PE outside the country; – transfer of assets or activity from a PE in the country towards another part of the enterprise, located outside the country; – transfer of assets or activity upon change of the jurisdiction of Republic of Bulgaria towards another jurisdiction; – transfer of activity of PE in the country towards another jurisdiction. The rules shall apply only to transfers within one and the same enterprise (for example in moving of assets/activities of a branch in Bulgaria towards another part of the same enterprise outside Bulgaria such as branch in another country or the principal company), where outside the scope of the new rules remains the transfer of assets and funds between the parent company and its subsidiaries, as well as change of ownership over assets.			

6. Tax and investment incentives

Bulgaria	Croatia	Slovenia	Romania
Bulgaria has tax and investment incentives for both resident and non-resident investors for investments in municipalities with unemployment, which is higher than the average, as qualified by the Minister of Finance. A generally available incentive not restricted by the type of investment activity performed is related to hiring of unemployed individuals. A legal entity is entitled to decrease its financial result with certain amounts provided it has hired a person under an employment relationship for not less than twelve successive months who, at the time of hiring, was: – registered as unemployed for more than one year; or – a registered unemployed person over the age of 50 years; or – an unemployed person with reduced working capacity. The authorised by law one-time deduction from the financial result of the company refers to the amounts paid for labour remuneration and the contributions remitted on the account of the employer to the public social security funds and the National Health Insurance Fund during the first twelve months after the employment of specified employees.	The investment incentives are prescribed by the Investment Promotion Law (IP Law). The goal of the IP Law is to stimulate economic growth in Croatia and to promote economic development, as well as to increase competitiveness within the Croatian business community by granting certain tax, customs and monetary incentives as listed below. The law is harmonised with the EU Guidelines on National Regional Aid (OJ C 1998, OJ C 2000, OJ C 2006) and the European Commission's Multi-sectorial Framework on Regional Aid for Large Investment Projects (OJ C 2002, OJ C 2003). Investment incentives apply to investments and improvements in the following sectors: – Production and processing activities; – Development and innovation activities; – Business support activities; and – High added-value activities. The IP Law provides for preferential CIT rates, depending on the value of the investment and the number of newly employed personnel. The law also provides for the following incentives, amongst others: – Employment incentives; – Incentives for the development and innovation activities, business support activities and high added-value activities; and – Incentives for capital expenses of investment projects.	Investment incentive of 40% for the investments in certain equipment or intangible assets. 100% investments or costs in R&D are recognised as incentive and lower the taxable base. For the unused part of the incentives in the tax period concerned, the taxpayer may reduce the tax base in the subsequent five tax periods. Pursuant to the CIT Act amendments, from 1 January 2020 the total reduction of tax base in a tax year (including both unutilized tax losses from previous years and tax incentives) is limited to 63% of the tax base of a current year.	No significant tax incentives are currently provided under Romanian law. The Romanian legislation contains a general framework for stimulating investments in certain fields of activity and provides for certain regional state aid schemes. The Romanian legislation provides for the following main incentives: – The profit reinvested in technological equipment produced and/or purchased after 1 July 2014 is exempt from CIT, under certain conditions. – A supplementary deduction may be claimed, for profits tax purposes, amounting to 50% of research and development expenses. – The accelerated depreciation method may also be applied for machinery and equipment used for research and development activities. – Taxpayers have the possibility to reschedule the payment of tax liabilities for a maximum period of five years, under certain conditions. – Taxpayers performing exclusively innovation, research and development activities are exempt from corporate tax in the first 10 years of activity. – The salary income obtained by employees from (i) software development, (ii) R&D and innovation activities or (iii) certain activities in the field of constructions, are exempt from personal income tax under certain conditions.

Bulgaria	Croatia	Slovenia	Romania
Investors may enjoy tax incentives of 100% deferral of the CIT due for the manufacturing activity upon meeting a number of criteria provided for by the law. Briefly, said requirements include: – the investor should perform manufacturing activity only in municipalities having unemployment rate for the previous year exceeding with 25% or more the average rate in the country for the previous year (for minimal aid), respectively for the year preceding the year of filing of the standard form aid application (for state aid for regional development); and – certain requirements for granting of a tax incentive representing de minimis aid or the requirements for granting of a tax incentive representing state aid for regional development are fulfilled. Incentives regarding donations and provision of scholarship are also available upon fulfillment of the eligibility requirements therefore.			

7. MLI and income tax treaties

7.1 Signatory to the MLI / ratification

Bulgaria	Croatia	Slovenia	Romania
Bulgaria has chosen 66 of its double tax treaties to be covered by the MLI (Netherlands, Malta and Finland are missing from the list) i.e. to be Covered Tax Agreements (CTAs). Pursuant to the official position provided at the time of signature of MLI, Bulgaria reserved the right for the entirety of Art. 8 Dividend Transfer Transactions provision from MLI not to apply to its CTAs. Hence, MLI would not impact distribution of dividends by requiring a minimum holding period of 365 days. Further, Bulgaria adopted the "principal purpose test plus simplified limitation of benefits" option. Supplementing the principal purpose test with a simplified LOB would make obtaining of treaty reliefs under the CTAs difficult and provide the tax authorities with more options to deny treaty reliefs on dividends. It should also be noted that the Simplified Limitation on Benefits Provision will apply only to those CTAs where all Contracting Jurisdictions have chosen to apply it. The Simplified Limitation on Benefits Provision however, was chosen not to apply to the Covered Tax Agreement with USA because this agreement contains such provision.	Croatia is a signatory to the Multilateral Convention.	Slovenia signed the MLI on 7 June 2017 and deposited its ratification on 22 March 2018. The MLI started to apply from 1 July 2018.	As signatory of the MLI, Romania opted to implement the provisions regarding Prevention of Treaty Abuse, whereby a benefit under a double tax treaty shall not be granted if obtaining it was one of the principal purposes of the arrangement/transaction that resulted directly in that benefit. Hence, it could be reasonably expected that the tax authorities' scrutiny on the transactions' economic substance will become more frequent and thorough. With respect to dividends, Romania has opted to implement the MLI provisions concerning Dividend Transfer Transactions. Hence, where Romania's double tax treaties provide for a minimum shareholding quota in order to apply the treaty rate/exemption, a minimum 365-day shareholding period shall be considered for this purpose. The applicability of MLI provisions at the level of treaties signed by Romania shall be assessed on a case-by-case basis, depending on whether and on how the other contracting state implemented the relevant MLI provisions in its treaties.

Bulgaria	Croatia	Slovenia	Romania
As at 22nd of July 2020 Bulgaria has notified for 12 CTAs containing principal purpose clauses. To the extent that the other Contracting Jurisdiction have made such a notification with respect to the respective provision of a Covered Tax Agreement the provisions containing principal purpose clauses of the respective CTAs will be replaced by the principal purpose test under Art. 7 (1) from MLI. So far we have identified that the principal purpose part of the Dividends provisions of 4 Covered Tax Agreements (Norway, Romania, South Africa, UK) from those 12 will be replaced by the principal purpose test under Art. 7 (1) from MLI. It should be noted that the Simplified Limitation on Benefits Provision will apply only to those CTAs where all Contracting Jurisdictions have chosen to apply it. The Simplified Limitation on Benefits Provision however, was chosen not to apply to the Covered Tax Agreement with USA because this agreement contains such provision. Bulgaria has reserved the right for the entirety of MLI's Art. 10 Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions not to apply to its Covered Tax Agreements.			

7.2 Income tax treaties and effect of the MLI

Treaties between countries included in this brochure that will be amended by the MLI are shown in the overview below. The relevant treaty is included below in **bold** in case both countries have listed the respective treaty as a Covered Tax Agreement. In case both countries have deposited their instrument of ratification, the date of entry into effect of the MLI for withholding taxes is included. In case both countries have opted for provisions of articles 4, 9 and/or 10 of the MLI and the treaty will be amended for these articles, this is also included below. For detailed provisions, including the exact amendments of articles 4, 9 and 10 and the other provisions, reference is made to the OECD MLI Matching Database. This overview provides the status as of 1 June 2021.

Bulgaria	Croatia	Slovenia	Romania
1. **Belgium**	1. **Belgium** (1/1/2022)	1. **Belgium** (1/1/2020)	1. **Bulgaria**
2. **Croatia**	2. **Bulgaria**	2. **Bulgaria**	2. **Croatia**
3. **Cyprus**	3. **Czech Republic** (1/1/2022)	3. **Croatia** (1/1/2022)	3. **Cyprus** (art. 4(1) MLI)
4. **Czech Republic**	4. **Estonia**	4. **Cyprus** (1/10/2020)	4. **Czech Republic**
5. **Estonia**	5. **Hungary** (1/1/2022)	5. **Czech Republic** (1/1/2021)	5. **Estonia**
6. **Hungary**	6. **Latvia** (1/1/2022)	6. **Estonia**	6. **Hungary**
7. **Latvia**	7. **Lithuania** (1/1/2022)	7. **Hungary**	7. **Latvia**
8. **Lithuania**	8. **Luxembourg** (1/1/2022)	8. **Latvia** (1/1/2020)	8. **Lithuania**
9. **Luxembourg**	9. **Malta** (1/1/2022)	9. **Lithuania** (1/1/2019)	9. **Luxembourg**
10. **Poland**	10. **Netherlands** (1/1/2022)	10. **Luxembourg** (1/1/2020)	10. **Malta**
11. **Romania**	11. **Poland** (1/1/2022)	11. **Malta** (1/1/2019)	11. **Netherlands** (art. 4(1) and 10 (1) through (3) MLI)
12. **Slovakia**	12. **Romania**	12. **Netherlands** (1/1/2020)	12. **Poland** (art. 4(1) MLI)
13. **Slovenia**	**13. Slovakia** (1/1/2022)	13. **Poland** (1/1/2019)	13. **Romania**
14. Switzerland	14. **Slovenia** (1/1/2022)	14. **Romania**	14. **Slovakia** (art. 4(1) MLI)
	15. Switzerland	15. **Slovakia** (1/1/2019)	15. **Slovenia** (art. 4(1) and 10 (1) through (3) MLI)
		16. Switzerland	16. Switzerland

Part IV

Estonia, Latvia, Lithuania,
Cyprus, Malta

1. Capital tax / stamp duty / real estate transfer tax / real estate tax

Estonia	Latvia	Lithuania	Cyprus	Malta
Capital tax There is no capital contribution tax in Estonia. **Stamp duty** The incorporation of a new company or changes in the share capital is subject to a stamp duty. Stamp duty for the incorporation is EUR 145 (or EUR 190 for a speed-up procedure). Changes in share capital are subject to stamp duty of EUR 18. **Real estate transfer tax** No special real estate transfer taxes are levied. However, a notary fee and a state fee are due upon the transfer of real estate. The rate depends on the value of the transaction and could be up to 0.5% of the transaction value. **Real estate tax** There is a land tax which varies from 0.1% to 2.5% of the cadastral value of land excluding buildings. Rate is set by local municipalities by 31 January each year.	**Capital tax** There is no capital contribution tax in Latvia. **Stamp duty** Stamp duty for registration of a company is from EUR 150 to EUR 450. Changes in the share capital is from EUR 35 to EUR 105. 2% - 6% stamp duty applies upon registration of the ownership of real estate with the Land Book. Stamp duty is normally levied based on the price of the transaction. 1% duty applies on contribution of property into share capital. Minor notary fees apply. **Real estate tax** Real estate tax is currently applied at a rate of 1.5% and is levied on an annual basis. Unused agricultural land is subject to a 3% rate. Real estate tax is calculated based on cadastral value of the real estate. Real estate tax is also applied to residential buildings and apartments with the following progressive rates: – 0.2% – for cadastral value not exceeding EUR 56,915; – 0.4% – for cadastral value from EUR 56,915 to EUR 106,715; – 0.6% – for cadastral value exceeding EUR 106,715. – EUR 7 minimum is payable.	**Capital tax** There is no capital contribution tax in Lithuania. **Stamp duty** Stamp duty in case of registration of the company or changes in the share capital is not substantial (up to EUR 60). Noteworthy that registration of the company or changes in the share capital is subject to notarisation requirement. Currently, notary fees may vary from EUR 72 to EUR 290. **Real estate transfer tax** There is no real estate transfer tax in Lithuania. However, one should take into account stamp duty related to the registration of the ownership to the real estate and costs of the notarisation of the real estate transfer. The state duties for the registration of title to real estate are calculated separately for each real estate object. Registration duty for ownership title is EUR 17,19 per one real estate object.	**Capital tax** With the Companies (Fees and Rights) (Amending) Regulations of 2018 (Κ.Δ.Π. 364/2018), the obligation to pay a capital duty of 0.6% on the authorised nominal share capital of a company whether upon incorporation of a new company and on any subsequent increase thereof, was abolished. The following apply with respect to registration fees payable to the Registrar of Companies: (1) Upon incorporation of a Cyprus company, a flat Euro 165 registration fee is imposed. (2) Upon the issuance of shares of a Cyprus company, a flat fee of Euro 20 is imposed. (3) Upon the increase of the authorised share capital of a Cyprus company, a flat fee of Euro 40 is imposed plus an additional fee of Euro 20 in case the Cyprus company maintains a filed English version of its Memorandum and Articles of Association.	**Capital tax** There is no capital contribution tax in Malta. There is, however, a company registration fee of EUR 245 to EUR 2,250, depending on the amount of the authorised share capital. **Stamp duty** No stamp duty is chargeable upon the incorporation of a company. Generally, any transfer of shares / marketable securities or issue and allotment of shares / marketable securities/ reduction of shares / marketable securities is subject to duty of two Euro for every one hundred Euro or part thereof (i.e. 2%) of the amount or value of the consideration or the real value, whichever is the higher, of the marketable security. However, certain exemptions may apply should certain requirements be met. **Real estate transfer tax** Stamp duty is payable by the buyer of immovable property situated in Malta, generally at the rate of 5% of the higher between the consideration and the market value, subject to exemptions and reductions as may be applicable.

Estonia	Latvia	Lithuania	Cyprus	Malta
	Municipalities are entitled to impose a different real estate tax rate ranging from 0.2 to 3.0% in accordance with regulations that must be issued by the municipality no later than on 1 November of the pre-taxation year. Otherwise the mentioned default rates of real estate tax apply.	The notary fee for certification of real estate transfer amounts to 0.37% of the value of the transaction, however not more than EUR 5,000 for transactions that involve one real estate object and not more than EUR 12,000 for transactions involving two or more real estate objects. Additional expenses such as brokerage fees, real estate valuation, bank fees, etc. may also be incurred during a transaction. **Real estate tax** Annual real estate tax rate (applicable on the real estate other than land) varies from 0.5% to 3% of taxable value of the real estate, depending on the decision of the particular municipality which has to determine the exact rate(s) of the tax within its territory. Taxable value of the real estate is determined based on the market value. Individuals owning residential real estate, value of which in total exceeds EUR 150,000, are taxed with real estate tax from 0.5% to 2% on the exceeding value.	**Stamp duty** The Stamp Duty Law provides, inter alia, that “every document mentioned in Appendix 1 of the Stamp Duty Law shall be chargeable with duty if it relates to any asset located in Cyprus or to matters or things to be done or performed in Cyprus irrespective of the place where such document is created”. The rates of stamp duty are as follows: – For transactions with a consideration up to EUR 5,000 no stamp duty is payable. – For transactions with a consideration in excess of EUR 5,000 but not exceeding EUR 170,000, stamp duty of EUR 1.50 for every EUR 1,000 or part thereof is payable. – For transactions with a consideration in excess of EUR 170,000, stamp duty of EUR 2.00 for every EUR 1,000 or part thereof is payable. – The maximum stamp duty payable on a contract is capped at EUR 20,000.	A transfer tax is payable by the seller of immovable property situated in Malta at the flat rate of 8% on the higher of the market value of the property and the consideration paid for the transfer (net of brokerage fees). Certain exemptions are applicable say in the case of sale of one’s ordinary residence. The transfer tax is a final tax. In certain prescribed circumstances, the seller is entitled to opt out of the transfer tax system and is entitled to opt to be charged to tax on the capital gains made on the sale. In such case, the capital gain derived from the transfer is computed by deducting allowable expenses from the consideration received and is charged to tax at the rate of tax applicable to the seller. **Real estate tax** Malta does not levy real estate tax.

Estonia	Latvia	Lithuania	Cyprus	Malta
		The applicable tax rate ranges: - 0,5% tax rate is applicable if the value is more than EUR 150, 000 but does not exceed EUR 300,000; - 1% tax rate is applicable if the value is EUR 300,000 up to EUR 500,000; - 2% tax rate is applicable if the value is EUR 500,000 and more. Annual land tax rate varies from 0.01% to 4% of taxable value of the land, depending on the decision of the particular municipality, which has to determine the exact rate(s) of the tax within its territory. Taxable value of the land is determined based on the market value.	– Where no amount of consideration is specified in the contract, the default position is that EUR 35 is payable, however, the Stamp Duty Commissioner may rule otherwise depending on the other transaction documents. For a transaction which is evidenced by several documents stamp duty is payable on the main contract and ancillary documents are charged at a flat rate of EUR 2. Certain documents are exempt from stamp duty, including documents relating to corporate reorganisations (which are exempt from all forms of taxation under certain conditions) and ship mortgage deeds or other security documents. **Real estate transfer tax** – Cyprus does not apply any immovable property tax (linked to ownership) following its abolition as of 2017. However, annual immovable property taxes are imposed by the relevant Municipality/Community where the relevant property is situated.	

Estonia	Latvia	Lithuania	Cyprus	Malta
			– Real estate transfers are subject to transfer fees to the extent that the real estate is not considered as 'new' (in which case VAT would apply rather than transfer fees). – Transfer fees (where applicable) apply on the open market value of the real estate transferred as determined by the Lands and Surveys Department. – Transfer fees (where applicable) use progressive rates against the determined open market value as follows: 0 - 85.000 3% 85.000 - 170.000 5% Over 170.000 8% Currently, the calculated transfer fee is then offered an unconditional 50%.	

2. Corporate income tax (CIT)

2.1 CIT and wealth taxes

Estonia

Estonia provides a CIT system as resident companies (and permanent establishments of non-resident companies) do not pay income tax for retained or reinvested earnings. The CIT obligation is deferred to the moment of distributing the profits or making deemed profit distributions. Therefore, as far as profits are not distributed, there is no CIT obligation for resident companies. The CIT is levied on the profit distributions (dividends and gifts, fringe benefits, other non-business expenditures and excessive capital reductions) made by companies at the gross rate of 20%. A reduced rate of 14% applies to regular dividend payments and other profit distributions. As for permanent establishments of foreign companies, the CIT is imposed on profit attributed to the permanent establishment that has been taken out of the permanent establishment during a period of taxation in monetary or non-monetary form.

Due to such CIT system there is no need for depreciation / amortization rules for tax purposes. In fact, the outcome is the same as there was unlimited depreciation for tax purposes. For the same reason there are no limits on carrying forward losses.

Latvia

Starting from 1 January 2018 Latvia has introduced new CIT system under which CIT is payable at the moment of profit distribution only. CIT applies to dividend distributions, deemed dividends (share capital increase followed by its decrease) and expenses considered deemed profit distribution (e.g. non-business expenses, transfer pricing adjustments, certain bad debts, certain loans, etc.). Profit distribution from Latvian company (as well as from PE's) is subject to 20% gross CIT rate. For calculation of CIT, the taxable base should be divided by a coefficient of 0.8.

The taxable period is the calendar month.

Wealth taxes

There are no wealth taxes in Latvia.

Lithuania

The general CIT rate is 15%. Resident companies are taxed on their worldwide income (income generated through a foreign permanent establishment organized in EEA states or other states with which a tax treaty is concluded and taxed in the foreign jurisdiction is exempt from CIT in Lithuania). The Law on CIT stipulates that gross revenue (total of sales and non-operating revenue) is the basis for computing the amount of taxable profit.

The tax is applicable on annual basis.

Until the end of 2022 an increased CIT rate of 20% is applied on taxable profits of credit institutions, exceeding the threshold of EUR 2 million. Taxable profit up to the mentioned threshold is subject to a standard CIT rate at 15%. Special rules for calculation of taxable profit apply.

A reduced rate of 5% applies to smaller companies whose average number of employees does not exceed 10 and maximum income during the taxable year does not exceed EUR 300,000 (reduced rate's application is subject to other conditions).

Cyprus

The general CIT rate is 12.5%. Legal entities tax resident in Cyprus are taxed on their worldwide income.

Wealth taxes

There are no wealth taxes in Cyprus.

Malta

The general CIT rate is 35%, but the combined overall effective rate may be reduced by application of Malta's full imputation system and tax payment and refund mechanism. Malta operates a full imputation system such that dividends distributed carry a credit in favour of a recipient shareholder (resident or non-resident) equivalent to the amount of underlying CIT paid by the distributing company on the profits out of which the dividend was distributed. Additionally, part of that underlying CIT paid may be refunded to the recipient shareholder (resident or non-resident), depending on the nature and source of the profits out of which the dividend was distributed.

Notional interest deduction

A notional interest deduction is allowed against risk capital with a view to approximating neutrality between debt and equity financing.

Foreign tax credit

Foreign tax actually paid or deemed to have been paid may be credited against Malta tax due on foreign income. The tax credit cannot be higher than the Malta tax on that income.

Estonia	Latvia	Lithuania	Cyprus	Malta
The taxable period is the calendar month. Deferral of CIT is limited for credit institutions as credit institutions and branches of foreign credit institutions must pay quarterly advance CIT payments of 14% from their profits. Special regime applies to shipping companies in order to make Estonia more attractive for shipping sector. **Wealth taxes** There are no wealth taxes in Estonia.		Such micro-companies that are newly established enjoy 0% CIT during the first tax period, provided that shareholders of the micro-company are natural persons and in the three tax periods (including the first one) the operations of the micro-company are not stopped, the micro-company is not liquidated or reorganized, and the shares of the micro-company are not transferred to new shareholders. In case the micro-company does not fulfil the established conditions for the 0% tax rate, the reduced 5% tax rate applies. **Wealth taxes** There are no wealth taxes in Lithuania.		The claim of relief for foreign tax paid/deemed to be paid, affects the aforementioned level of refund that may be claimed by the shareholder upon a distribution of dividends. **Income from permanent establishments** Any income or gains derived by a Malta company from a permanent establishment (including a branch) situated outside Malta or to the transfer of such permanent establishment may be exempt from tax in Malta at the company's choice. **Wealth taxes** There are no wealth taxes in Malta.

2.2 Dividend regime (participation exemption)

Estonia	Latvia	Lithuania	Cyprus	Malta
CIT is not levied on the redistribution of dividends if the underlying dividends are received from a subsidiary that is a tax resident in an EEA member state or Switzerland and the Estonian parent holds at least 10% of the shares or votes in that subsidiary. The participation exemption also applies to the dividends from other jurisdictions if the Estonian company holds at least 10% of the shares or votes and income tax has been paid from the underlying share of profit or income tax on the dividends has been withheld in foreign jurisdictions. Participation exemption also applies to permanent establishments and certain capital repayments. **Impact EU GAAR** Estonia has implemented the rules for EU GAAR. CIT exemption would not apply to a transaction or chain of transactions, where the main purpose or one of the main purposes is to obtain a tax advantage. The tax exemption is applicable to the extent that the transaction or chain of transactions is made for business purposes, reflecting appropriate and necessary economic substance of business activity.	Dividends received by a resident company from any non-resident company are exempt from CIT (if CIT is paid in the country of origin). The exemption, however, is not applicable to dividends received from black-listed offshore jurisdictions. **Impact EU GAAR** As of 1 January 2018, a new CIT law has entered into force, in which Latvia has implemented the EU PSD GAAR rules. The respective anti-avoidance provision states that the exemption from CIT for incoming dividends may be denied if the main goal of incorporation, existence of a company or a respective transaction is the use of the exemption. Thus, the dividend participation exemption shall not be granted if any of the involved parties is considered artificial. Additionally as of 1 January 2013, Latvia has introduced local GAAR under which the tax administration should analyse the taxpayer's transactions not only based on their legal form, but also economic substance.	Dividends received by the resident company from Lithuanian companies and from non-resident companies are taxed in Lithuania with 15% CIT. However, dividends will not be taxed in Lithuania, if the recipient company has held no less than 10% of the voting shares in the distributing company continuously for no less than 12 months, including the moment when the dividends are distributed. Commentaries prepared by the Lithuanian tax authorities interpret this 12-month rule broadly and also apply it in cases where the shares are held for the period shorter than 12 months but the recipient company plans to hold shares for such or longer period. This participation exemption satisfies the requirements of the EU Parent-Subsidiary Directive. The exemption also applies to dividends paid by non- EU foreign companies, except those registered or organised in a listed tax haven countries. Dividends paid by EEA foreign companies are exempt from CIT in Lithuania irrespective of the holding period or number of shares.	**Impact EU GAAR** Cyprus has never applied withholding tax and, consequently, the amendments included in the EU Parent-Subsidiary Directive (Directive 2015/121/EU – PSD GAAR) did not have a direct effect in Cyprus. As a result of the GAARs, Cyprus has already incorporated the anti-avoidance provisions of the PSD GAAR into domestic law (effective as from 1 January 2016), giving the tax authorities power to disregard artificial or fictitious transactions and to withhold the corporate tax exemption on dividends received by companies in Cyprus from elsewhere in the EU if the dividend is treated as a tax-deductible expense in the accounts of the company paying it (so-called "hybrid mismatches"); such dividends will instead be taxed as normal business income at 12.5%. On 5 April 2019, the House of Representatives approved legislation implementing the EU Anti-tax Avoidance Directive (2016/1164/EC) in Cyprus with the aim of improving the resilience of the internal market against cross-border tax avoidance practices.	In general all dividends received are subject to 35% CIT. However, in case of a company receiving dividends from a 'participating holding' in companies resident outside Malta and provided that the ultimate direct/ indirect shareholders of the Maltese Company are not ordinarily resident and domiciled in Malta, (provided certain anti-abuse provisions/safe harbour rules are also satisfied: see below) there are two options: – benefiting from the participation exemption, in which case no tax is paid on such dividends; or – paying tax at the rate of 35%, in which case, upon a distribution of dividends by the Malta company from the dividends derived from a 'participating holding', the share-holder may claim a 100% refund of the tax paid by the company on such dividends. Therefore, Malta tax on dividends received from a 'participating holding' is, in both scenarios, effectively nil. Dividends that are not derived from a 'participating holding' are taxed at the rate of 35% and upon a distribution of dividend by the Malta company, the shareholder may claim a 6/7 or 2/3 refund of the Malta tax paid (as applicable).

Estonia	Latvia	Lithuania	Cyprus	Malta
Since the 1st of July 2021, the distribution of dividends is taxed with CIT at the rate of 20/80 if the company is situated in a non-cooperative jurisdiction, even if the dividends are received from a subsidiary that is a tax resident in an EEA member state or Switzerland and the Estonian parent holds at least 10% of the shares or votes in that subsidiary or from other jurisdictions if the Estonian company holds at least 10% of the shares or votes and income tax has been paid from the underlying share of profit or income tax on the dividends has been withheld in foreign jurisdictions. Holding companies are not automatically qualified as companies with no economic substance, but they must have a function and a structure appropriated for a holding company. The law does not specify the criteria further.	The participation exemption applies only if the dividends have not been deducted from the taxable income of the company distributing the dividends.	Where dividends paid between two Lithuanian companies do not enjoy participation exemption and are taxed with 15% CIT, the recipient company is entitled to settle the CIT withheld from dividends with CIT payable on other profit. Where CIT paid on dividends exceeds CIT to be paid on other profit of the recipient company, the latter is entitled to a refund of CIT from the revenue authorities. Therefore, dividends paid between Lithuanian companies are effectively exempt from CIT. **Impact EU GAAR** The Law on Corporate Income Tax was amended at the end of March 2016 (and came into effect 26 March 2016), stating that provisions establishing exemptions for inbound and outbound cross-boarded dividends "*shall not apply when the sole or one of the main objectives is obtaining tax benefit*". This new provision "*shall apply to the extent the situation relates to seeking of tax benefit without having reasonable commercial reasons representing the economic reality*".	The provisions relating to interest deductibility, controlled foreign company (CFC) rules and the general anti-abuse rules (GAARs) came into effect on 1 January 2019, while the provisions relating to exit taxation and countering hybrid mismatches are applied retrospectively as of 1st January 2020 following the Official publication in the Official Gazette on 03 July 2020. Transactions which are not carried out for valid commercial reasons will give rise to tax liability, which will be calculated in accordance with income tax law. Cyprus already incorporates within its tax legislation numerous anti-abuse rules. It is expected that relevant articles within the legislation will be amended and enhanced to provide greater and specific powers to the Inland Revenue director to disregard non-genuine arrangements that have no valid commercial reason that reflect economic reality. The GAAR will apply only to corporate transactions.	A 'participating holding' is held if the equity shareholding in the company satisfies inter alia any one of the following conditions, the most commonly satisfied being: – a direct holding of at least 5% of the equity shares or capital which confers an entitlement of at least 5% of any two of: - right to vote; - profits available for distribution; - assets available for distribution on a winding up; – the company is an equity shareholder which holds an investment representing at least EUR 1,164,000 and is held for an uninterrupted period of at least 183 days. In all the above cases, an 'equity shareholding' is a participation in the share capital of a company (other than a property company) which entitles the holder to at least two of: – right to vote; – right to profits available for distribution; – right to assets available for distribution on a winding up.

Estonia	Latvia	Lithuania	Cyprus	Malta
		Lithuanian tax authority provides an official commentary on how this provision should be interpreted and applied in practice, and lists exemplary criteria and circumstances which are taken into account when assessing whether the arrangement is artificial. Furthermore, the provision allowing non taxation of inbound dividends from foreign companies was amended, including a condition that such dividends were not tax deductible for the paying entity (hybrid mismatched elimination).	On the 22nd of January 2020 the instrument of Ratification of the Multilateral Convention to Implement Tax Treaty related matters (MLI), together with the positions of Cyprus and an explanatory statement, were published in the Official Gazette of the Republic. Cyprus approved the minimum actions as prescribed by the MLI to include Action 7 (Treaty Abuse). Article 7 contains a general anti-abuse rule based on the principal purpose of transactions or arrangements (PPT). It also contains an option to supplement the PPT with a simplified limitation on benefits (LOB) provision. The majority of signatories to the MLI, including Cyprus, have opted for the PPT clause only. Cyprus has not made any notification as regards the adoption of the LOB provision. Cyprus has chosen to apply Article 7(4) of the MLI in cases where the competent authority determines that such benefits would have been granted in the absence of the transaction or arrangement.	Other considerations: – The income of the company in which the ‘participating holding’ is held does not need be subject to tax in any foreign jurisdiction (subject to the anti-abuse provisions mentioned hereunder). – There is no minimum holding period (with the exception of a ‘participating holding’ which qualifies as such on the basis of the minimum investment of EUR 1,164,000). – The Malta company is not required to become involved in the management of the company. The participating holding may also be in certain other entities as specifically defined, if this holding satisfies any one of the six conditions mentioned above. For dividends to be exempt via the participation exemption and the full refund is applicable if the following safe-harbour rules are satisfied namely the company in which the participation is held must satisfy any one of the following conditions: – the company is resident or incorporated in country or territory that forms part of the EU; or

Estonia	Latvia	Lithuania	Cyprus	Malta
				– the company is subject to tax at a rate of at least 15%; or – the company does not derive more than 50% of its income from passive interest or royalties. Alternatively, if none of the above three conditions are met, two other conditions must be met cumulatively. Act No. XVIII of 2021, 'The Budget Measures Implementation Act 2021, has introduced a new anti-abuse rule related to Malta's participation exemption being that the exemption shall not apply to income derived from a participating holding in a body of persons resident for tax purposes in a jurisdiction that is included in the EU list of non-cooperative jurisdictions for a minimum period of three (3) months during the year immediately preceding the year of assessment unless it is proved to the satisfaction of the Commissioner for Revenue that the said body of persons maintains sufficient significant people functions in that jurisdiction as is commensurate with the type and extent of the activity carried on in that jurisdiction and the income earned therefrom. The above is effective as from the 1st of January 2021.

Estonia	Latvia	Lithuania	Cyprus	Malta
				Dividends from a participating holding that does not satisfy the anti-abuse provisions are not entitled to benefit from the participation exemption or the full refund and are taxed at the rate of 35%. Upon the distribution of dividends by the Malta company, the shareholder may claim a 5/7 or a 2/3 refund of the Malta tax paid (as applicable). No immovable property situated in Malta or real rights thereon should be in/directly held within the structure. **Impact EU GAAR** The participation exemption does not apply with respect to a profit distribution received from a participating holding in a company resident in the EU by a Malta resident parent company or by the Malta permanent establishment of an EU resident parent company, in case (i) such distribution is exempt from withholding tax pursuant to the EU Parent-Subsidiary Directive and (ii) such distribution is deductible by the EU participating holding company in that other EU member state.

2.3 Gains on shares (participation exemption)

Estonia	Latvia	Lithuania	Cyprus	Malta
Capital gains from the disposal of shares are subject to CIT at the gross rate of 20% if the profit is distributed (see above Section 2.1). There is no participation exemption for capital gains.	Capital gains from the alienation of shares are exempt from CIT if such profit is distributed if the holding period of shares is at least 36 months at the time of alienation (the exemption does not apply to capital gains derived from shares in a company registered in black-listed offshore jurisdictions and to capital gains from sale of shares in Latvian real estate company).	As a general rule gains on shares are included in the taxable base and taxed as ordinary income. Capital gains from alienation of securities in entities registered or otherwise organised in EEA states or other states with which a tax treaty is concluded and which is a payer of the corporate profit or similar tax, in which transferring party has more than 10% of voting shares for no less than two years continuously before the sale (three years in case the shares were acquired by way of (de)merger or reorganisation), are exempt from CIT. This exemption does not apply in the case of the asset transfer when exiting Lithuania, also when the shares are sold back to the issuer.	In principle any profits from the disposal of securities are exempt from taxation. 'Securities' are very widely defined and include ordinary shares, founder's shares, preference shares, options on titles, debentures, bonds, short positions on titles, swaps on titles, depositary receipts on titles (ADRs and GDRs), rights of claims on bonds and debentures (rights on interest of these instruments are not included), index participations only if they result in titles, repurchase agreements or Repos on titles, participations in companies (Russian OOO and ZAO, US LLC provided that their profits are subject to taxes, Romanian SA and SRL and Bulgarian AD and OOD), units in open-end or closed-end collective investment schemes that have been incorporated, registered and operate in accordance with the provisions of the relevant legislation of the incorporated country.	The same rules apply to capital gains as to dividends, except that the safe-harbour rules referred to under Section 2.2 above (with the exception relating to immovable property situated in Malta) do not apply in the context of capital gains. The latter would also apply to capital gains derived by a Malta resident company from a participating holding in another Malta resident company other than a 'property company' as defined by law and subject to other anti abuse provisions.

Estonia	Latvia	Lithuania	Cyprus	Malta
			The only exemption to the rule are profits derived from the disposal of shares of a Cyprus tax resident limited liability company that directly or indirectly owns Cyprus immovable property, which under certain conditions may attract capital gains tax at the rate of 20% (computed purely by delineating and basing the tax charge on the immovable property directly or indirectly owned).	

2.4 Losses on shares

Estonia	Latvia	Lithuania	Cyprus	Malta
Since there is no annual CIT, deductibility of capital losses incurred on the sale of shares is not relevant.	Since there is no annual CIT, deductibility of capital losses incurred on the sale of shares is not relevant.	Capital losses incurred as a result of a transfer of securities may be carried forward only for five consecutive years. Those losses are accounted separately and may be offset only against profits gained from transfer of securities. However, as of 1st January 2021 no deduction and carry forward of the capital losses is available, if they result from alienation of securities in an entity registered or otherwise organised in EEA state or other state with which a tax treaty is concluded and which is a payer of the corporate profit or similar tax, if: i) the seller has held more than 10% of voting shares of such entity for no less than two years continuously before the sale or ii) if the alienation resulted from reorganization or other related transfer, and the transferring entity has held more than 10% of voting shares of such entity for no less than three years continuously before such transfer.	A capital loss incurred from the sale of shares is generally non-tax deductible.	Deductible capital losses may only be offset against chargeable capital gains realised in the current and following years. Capital losses incurred by a company may not be used to offset capital losses incurred by another company that belongs to the same group of companies.

2.5 Costs relating to the participation

Estonia	Latvia	Lithuania	Cyprus	Malta
Costs related to acquisition of a participation are taxed with 20% CIT at gross basis if such acquisition: – does not relate to a business of the tax payer; or – relates to the acquisition of securities issued by a low-tax territory company. CIT also applies, if: – acquisition of securities issued by a legal person located in a non-cooperative jurisdiction for tax purposes; – acquisition of a holding in a legal person located in a non-cooperative jurisdiction for tax purposes.	Latvian legislation does not provide for any specific regulation with respect to costs relating participation. See Section 5 for thin capitalisation rules.	Expenses in relation to the tax exempt income (e.g. capital gains on shares transfer) are not deductible. See Section 5 for the thin capitalisation rules.	Expenses linked with acquiring a participation are generally non allowable (as the income thread from participations – dividends and/or capital gain – are generally exempt from CIT). As from 1 January 2012, interest expense connected to the acquisition of a 100% owned subsidiary with trading/business activities is treated as an allowed expense. See Section 5 for thin capitalisation rules.	The general rule is that an expense is deductible if it is wholly and exclusively incurred in the production of the company's income and it is not specifically disallowed in terms of Malta law. Interest expenses are generally deductible if the Revenue Authorities are satisfied that the interest was payable on capital employed in acquiring the income. If in any year, the interest expense exceeds the income derived from the investment, the excess interest expense may not be carried forward to subsequent years to deduct income generated in subsequent years. See Section 5 with respect to the thin capitalisation rules. **Impact EU Interest Limitation Rule** Regulation 4 of L.N. 411 draws heavily from article 4 of the ATAD 1 prescribing that: exceeding borrowing costs shall be deductible in the tax period in which they are incurred only up to 30% of the taxpayer's earnings before interest, tax, depreciation and amortization (EBITDA).

2.6 Currency exchange results

Estonia	Latvia	Lithuania	Cyprus	Malta
Gains from currency exchange are subject to Estonian CIT at a gross rate of 20% upon distributing the profits (see Section 2.1 above).	Gains from currency exchange are subject to CIT only with distribution of the profit. Losses do not influence the CIT position.	Currency exchange results are included in the taxable income (or may be deducted).	With effect from 1 January 2015 accounting profits and losses arising from currency exchange rate fluctuations are disregarded for tax purposes. Only gains or losses arising from actual trading in foreign currencies or foreign currency derivatives will be taken into account. Businesses carrying out such activities may irrevocably elect to be taxed on the basis of only realised profits or losses.	Currency exchange differences are included in the computation of chargeable income (as taxable profits or deductible expenses), provided that such differences are realised and are ancillary to chargeable income or chargeable capital gains.

2.7 Tax rulings

Estonia	Latvia	Lithuania	Cyprus	Malta
Estonian Tax and Customs Board must issue a binding ruling within 60 days (can be extended by 30 days in more complex cases) from a submission of the qualifying request. Applicants must pay a stamp duty (state fee) of EUR 1,180 for legal entities and EUR 300 for natural persons. The binding ruling cannot be appealed. It is not possible to obtain advance pricing agreement (APA) for transfer pricing purposes. The tax authority has the right to refuse to make a preliminary decision if: – application of legal provisions regulating the taxation of the act is explicit under objective circumstances; – the act is hypothetical; or – the act is aimed at tax evasion.	It is possible to request a binding ruling (statement on one's rights) from tax authorities. However, such a request should be based on specific facts and relate to a specific transaction. The ruling must be provided free of charge within 30 days, but the deadline can be extended in more complex cases. Taxpayers may apply for an advance pricing agreement (APA) with tax authorities if the amount of the respective related-party transaction or certain type of transactions exceeds EUR 1.43 million per year. The fee for an APA is EUR 7,114.	Binding rulings and advance pricing agreements are available in Lithuania. The taxpayers have to provide details of the future transaction as well as description of Lithuanian legislation provisions or transfer pricing principles applicable to the future transaction, which, if approved by the tax authorities, is binding for the tax authorities for up to five calendar years after the year in which the ruling is issued. Binding rulings and advance pricing agreements are free of charge.	The Tax Rulings Division of the Cyprus Tax Department will issue advance tax rulings regarding actual transactions (or series of transactions) relating to tax years for which the due date for filing a tax return has not yet passed as well as transactions proposed to be undertaken by new or existing companies. Requests for tax rulings must be in writing and must include the following information: – the name and tax identification code of the parties involved in the relevant transaction and the name of any group of companies of which any parties are members; – confirmation that all the parties have filed all the tax returns due; – a description of the circumstances, giving a sufficient explanation of the tax issue under consideration; – detailed factual analysis of the transaction or transactions relating to the request; and – the question or questions on which a ruling is required: references to the relevant tax legislation, tax circulars or practices of the tax department and to any relevant case-law, and the applicant's opinion regarding the appropriate tax treatment.	It is possible to seek an advance revenue ruling from the Revenue Authorities on, inter alia, the following issues: – confirmation that certain domestic general anti-avoidance provisions do not apply to a given transaction; – confirmation that an equity shareholding qualifies as a participating holding on the basis that it is or will be held for the furtherance of the business of the Malta company; – the tax treatment of a transaction concerning a particular financial instrument or other security; – the tax treatment of any transaction which involves international business. Rulings are exchangeable in terms of Regulation 13(3) of the Cooperation Regulations [SL 123.127] and relevant details of the parties/entities involved are required [including name, registered address and TIN] when making a request. These rulings guarantee the tax position for a period of five years and may be renewed for a further five-year period.

Estonia	Latvia	Lithuania	Cyprus	Malta
A preliminary decision is binding for the tax authority if: – the act was performed during the term specified in the preliminary decision; – the performed act conforms to the description provided in the preliminary decision in all circumstances significant in terms of taxation; or – the legal provisions relevant for taxation purposes have not been substantially amended before performance of the act.			– Advance tax rulings are available and taxpayers may request an expedited ruling, guaranteeing a response within 21 working days, provided all the necessary information is supplied, on payment of the prescribed fee (currently EUR 2,000). – The prescribed fee for a “normal” non-expedited tax ruling is EUR1.000, with no guarantee of early response.	They will also survive any changes of legislation for a period of two years after the entry into force of a new law. Additionally, an informal guidance procedure has been developed in practice where-under a taxpayer may obtain written guidance from the local tax authorities in respect of one or more specific transactions.

2.8 Loss carry over rules

Estonia	Latvia	Lithuania	Cyprus	Malta
Carry back There is no loss carry back in Estonia. **Loss carry forward** There is an unlimited loss carry forward.	**Carry back** There is no carry back possibility in Latvia. **Carry forward** 15% of tax losses accumulated as on 31.12.2017 can be carried forward up to five years, starting from 2018. These losses can be used to decrease the CIT payable for dividends, but not more than 50% of CIT payable on dividends.	**Carry back** There is no carry back possibility in Lithuania. **Carry forward** Losses may be carried forward for an unlimited period of time provided that the activity from which the losses resulted is not terminated. Losses sustained from the transfer of securities and the derivative financial instruments may be carried forward only for five consecutive tax years (see also Section 2.4). The number of losses carried forward cannot exceed 70% of entity's profits received during a fiscal year. The restriction of 70% is not applicable to entities that are entitled to apply reduced CIT rate of 5%. Specific rules apply in cases of carrying forward losses sustained from the use, sale or other transfer of property ownership created in research and experimental development activities carried out by the entity itself.	**Carry back and carry forward** Loss carry back is not permitted in Cyprus. **Carry forward** **Single company carry forward rules** Losses can be carried forward for a period of five consecutive years unless there is both a change in ownership and activities of the Company. **Group relief** Group relief is available for current year losses provided a 75% plus direct or indirect relationship exists for the complete year. As from the 1 January 2015, group relief is also available between EU subsidiary relationships subject to conditions.	**Carry back** There is no carry back possibility in Malta. **Carry forward** All trading losses incurred by companies wholly and exclusively in the production of the income may be carried forward indefinitely and offset against future income. Capital losses may be carried forward and offset against future capital gains. Exceeding borrowing costs can be carried forward for a maximum of 5 years. Claimed but unutilized notional interest may be carried forward.

2.9 Group taxation for CIT purposes

Estonia	Latvia	Lithuania	Cyprus	Malta
There is no group taxation regime for CIT purposes.	Latvian tax law does not allow tax loss transfers within a group of companies.	There is no group taxation regime for CIT purposes in Lithuania. There is an opportunity to transfer losses between several entities of the same group. Intra-group transfer of losses are subject to the following requirements: – the parent company of the group must hold directly or indirectly at least 2/3 of the shares in both entities participating in the loss transfer (or loss may be transferred to the parent company); and – both entities participating in the loss transfer are required to comply with this requirement for at least two years: or – entities participating in a loss transfer transaction need to be within the group from its formation and have to remain in the group for at least two years. Cross-border transfer of losses between EU entities is also available, but due to strict requirements is hardly applicable in practice.	There is no group taxation regime for CIT purposes (there is no consolidated tax base). However, group relief is available as mentioned in section 2.8.	Malta has recently through L.N. 110 of 2019, introduced the Consolidated Group (Income Tax) Rules allowing the formation of a 'Fiscal Unit' in the context of a group of companies as defined. **Formation** A parent company may make an election in order for itself and its ninety-five per cent (95%) subsidiary to form a fiscal unit, provided that the ninety-five per cent (95%) subsidiary must have its accounting period beginning and ending on the same dates as the accounting period of the parent company in all the years in which it forms part of the fiscal unit. Where a parent company has made an election each ninety-five per cent (95%) subsidiary in respect of which the election is made shall form part of the same fiscal unit of its parent company.

Estonia	Latvia	Lithuania	Cyprus	Malta
				Furthermore, a parent company is a company that holds shares in another company (foreign/ local), if in the year prior to the year of assessment in which an election is made to be treated as a fiscal unit holds 2/3 of the following rights: ninety-five percent (95%) of the: i. voting rights; ii. Entitlement to of any profits available for distribution to the ordinary shareholders of the subsidiary company; iii. entitlement to any assets of the subsidiary company available for distribution to its ordinary shareholders on a winding up. **Tax Consolidation** Tax consolidation provides a full integration of the tax position of its members. As a result, intragroup transactions (excluding transfers related to immovable property situated in Malta) are disregarded for tax purposes. Tax shall be payable by the principal taxpayer on behalf of all members of the group. Principal taxpayers are responsible for the preparation of a consolidated balance sheet and consolidated profit and loss account covering all the companies in the fiscal unit.

Estonia	Latvia	Lithuania	Cyprus	Malta
				Group Relief If a company does not elect to be treated as a fiscal unit for the aforementioned tax consolidation rules, a Malta company may surrender its tax losses to a group company where both companies are members of the same group throughout the year preceding the year of assessment in which relief is claimed. Two companies are deemed to form part of the same group where they are both resident in Malta and not resident for tax purposes in any other country and one is at least the 51% subsidiary of the other or both are at least 51% subsidiary of a third company resident in Malta. Losses of the surrendering company may be set off against the total income of the claimant company for the corresponding year of assessment and for subsequent periods, where applicable, provided in the year in which surrendering company has incurred losses both companies have accounting periods which begin and end on the same date. There are exceptions in respect of new companies and companies which are being wound up.

Estonia	Latvia	Lithuania	Cyprus	Malta
				Companies may only surrender losses incurred in the year preceding a year of assessment to other group companies – losses brought forward cannot be used either within a newly formed tax group or within an already existing tax group. By virtue of an anti-abuse provision, if a company is a member of a group of companies, and arrangements are in existence the sole or main purpose of which is to reduce any company's tax liability, and were it not for the said arrangements that company would not qualify to be a member of that group of companies, then that company shall be treated as not being a member of that group for any year preceding a year of assessment in which the said arrangements are in existence.

3. Withholding taxes payable by the holding company

3.1 Withholding tax on dividends paid by the holding company

Estonia	Latvia	Lithuania	Cyprus	Malta
Dividends paid by resident companies to non-resident persons are not (besides the 20% gross rate CIT payable at Estonian company level upon distributing the profit) subject to withholding tax. The regular dividends taxed under 14% CIT are subject to withholding tax at the rate of 7% (may be reduced under respective double tax treaty) if such regular dividends are distributed to natural person shareholders. **Liquidation / Share repurchase** Payments (liquidation payments, payments made upon reduction of share capital and payments made upon share repurchase) are subject to income tax at the level of the company making such payments (taxable proceeds), to the extent that they exceed the capital contributions paid in. **Impact EU GAAR** Estonia has implemented the rules of EU GAAR. The CIT exemption for dividends is not applicable if the taxpayer cannot prove that there is actual economic reason for the use of a specific chain of transactions.	No withholding tax is levied on dividend payments to non-resident companies, except for companies established in black-listed offshore jurisdictions (20% WHT). 20% CIT is payable at Latvian company level upon distribution the profit. **Impact EU GAAR** As of 1 January 2018, a new CIT law has entered into force, in which Latvia has implemented the EU PSD GAAR rules. The respective anti-avoidance provision states that the exemption from CIT for incoming dividends may be denied if the main goal of incorporation, existence of a company or a respective transaction is the use of the exemption. Thus, the dividend participation exemption shall not be granted if any of the involved parties is considered artificial. **Impact ATAD – GAAR** Latvia has implemented ATAD GAAR by the previously mentioned provision of denying CIT exemption to incoming dividends if any of the involved parties is considered artificial.	Dividends paid by resident companies to residents and non-residents are subject to withholding tax at a rate of 15%. An exemption of dividend withholding tax applies if the shareholder holds no less than 10% of the voting shares in the distributing company for an uninterrupted period of 12 months, unless the shareholder is registered in territory included in the Black List (tax heaven). The Black List includes most of the typical offshore jurisdictions (approx. 60 jurisdictions are listed). According to the official commentaries prepared by the Lithuanian tax authorities, the dividends may enjoy the above 'participation exemption' even if the shares are held for the period shorter than 12 months, but the shareholder intends to hold them for such or longer period. This participation exemption satisfies the requirements of the EU Parent-Subsidiary Directive. The above rules apply irrespective of whether the dividends are distributed from the profits accumulated in periods prior to accession to the EU.	No withholding tax is levied in Cyprus on distributions to non-residents. **Impact ATAD – GAAR** A GAAR is implemented through the provisions of ATAD with effect from 1 January 2019. Any corporate transaction that is not carried out for a valid commercial reason will lead to a tax liability in accordance with the Cyprus Income Tax Law. The addition of new Article 33(6) to the Income Tax Law reproduces the provisions of Article 6 of ATAD, allowing the Tax Department to disregard artificial arrangements (i.e., arrangements not put into place for valid commercial reasons which reflect economic reality) whose main purposes include obtaining a tax advantage that defeats the object or purpose of the tax laws. Credit will not be granted to offset tax liability in Cyprus if a company is resident in another member state and obtains a dividend with the goal of getting a tax advantage.	No withholding tax is levied in Malta on dividend distributions to a non-resident shareholder, provided that such corporate shareholder is not directly or indirectly owned and controlled by, and does not act on behalf of, an individual who is ordinarily resident and domiciled in Malta or in the case of an individual shareholder provided that one is not resident and/or domiciled in Malta. **Impact EU GAAR** A GAAR is already included in Malta income tax legislation. In those cases where a scheme is artificial or fictitious the commissioner for revenue has the power to disregard such artificial or fictitious scheme and assess the person accordingly. As mentioned above, Malta does not levy dividend withholding tax and therefore no changes are expected to Malta legislation to implement specific EU (PSD) GAAR. **Impact ATAD – GAAR** A GAAR is already included in Malta as set out above. As reiterated by various local Maltese tax practitioners, the ATAD GAAR as contemplated in the said regulations is quasi indistinguishable from the domestic law GAAR mentioned above.

Estonia	Latvia	Lithuania	Cyprus	Malta
Impact ATAD – GAAR Starting from 1 January 2019, Estonia has adopted General anti-abuse rule, which is set forth in Directive 2016/1164/EU (the Anti-Tax Avoidance Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market), to national legislation. In general, a similar rule already existed in Estonian law. However, one of the specifications is that an arrangement is also considered not genuine if one of the main purposes of it is to obtain a tax advantage. Previously, according to the substance over from principle, the requirement was that it had to be the main purpose. Therefore, with adoption of the rule, re-qualification of arrangements has been made easier for the tax authority. According to the addition, for the purposes of calculating the corporate tax liability, the tax authority must ignore an arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defies the object or purpose of the applicable tax law, are not genuine having regard to all relevant facts and circumstances.	As of 1 January 2013, Latvia introduced local GAAR which stipulates that the tax administration should analyze the taxpayer's transactions not only based on their legal form, but also economic substance. Such provision can be considered as being in line with the ATAD GAAR provisions.	**Liquidation / Share repurchase** In case of liquidation of the company and /or share repurchase the shareholder is treated as selling the shares to the issuer and the resulting capital gain is subject to taxation as ordinary income. Participation exemption is not applicable in this case. Non-monetary distribution upon liquidation of the company under liquidation is treated as a sale and capital gains received from such transfer will increase the taxable base of the company under liquidation. **Impact EU GAAR** See Section 2.2. **Impact ATAD – GAAR** EU GAAR aimed at denying withholding tax exemption for dividends that are paid to artificial arrangement having been put into place for the main purpose (or one of the main purpose) to gain tax benefit, is already implemented (see Section 2.2).	Cyprus has notified the contents of the preamble in all 66 of its covered tax treaties. Assuming that the other contracting state is also a signatory to the MLI and has not made a reservation, the preamble will automatically be amended to expressly state that the purpose of the covered tax agreement in question is to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance, including through treaty-shopping arrangements. Article 7 sets out a general anti-abuse rule based on the principal purpose of transactions or arrangements. Cyprus has chosen to apply Article 7(4) of the MLI, which provides for a principal purpose test ("PPT"). Tax benefits will be denied if one of the principal purposes of a transaction or an arrangement is to directly or indirectly obtain a tax benefit, unless the granting of that benefit in the circumstances would be in accordance with the object and purpose of the relevant treaty provisions.	

Estonia	Latvia	Lithuania	Cyprus	Malta
		Also, the special anti-avoidance rule called 'substance over the form' has for a long time been incorporated in Lithuanian legislation. Under this rule for the purpose of tax calculation tax authorities may disregard formal expression of the taxpayer's activity, if after recreating the distorted or hidden circumstances, the tax administrator identifies that the transaction, economic operation or any combination thereof was concluded to gain the tax benefits (e.g. defer the tax payment deadline, reduce or fully avoid the amount of tax payable, increase the tax overpayment, etc.). Moreover, as of 1 January 2019 the Multilateral Convention to Implement the Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting came into effect in Lithuania and implemented the principal purpose test in its treaty network. Under the principal purpose test the tax treaty benefits will not be granted to income or capital if obtaining a tax benefit was the principal purpose of an arrangement or transaction.	Signatories to the MLI may opt to supplement the PPT with a simplified limitation-on-benefits ("LOB") provision. Alternatively, countries can negotiate bilateral detailed LOB provisions. Cyprus has not made any notification to adopt a LOB provision.	

Estonia	Latvia	Lithuania	Cyprus	Malta
		In this respect Lithuania also chose to apply an additional non-mandatory provision that allows to apply the favorable treatment towards the tax payer if the tax administrator establishes that respective treatment would still be available despite the arrangement or transaction (with the principal purpose of obtaining tax benefit).		

3.2 Withholding tax on interest paid by the holding company

Estonia	Latvia	Lithuania	Cyprus	Malta
Interest paid to a non-resident company is generally exempt from income tax. In case of transaction between the related parties, transfer pricing rules apply. **Impact ATAD – GAAR** With effect from 1 January, 2019, the exceeding borrowing cost limitation rule was introduced to Estonian law. As a result of change, it is considered that, from a certain amount, payable interest rates are not economically justified (business related in the sense of the current law). Due to that, excessive interest payments are taxed with corporate income tax. First and foremost this rule requires attention of those companies, where the percentage of interest expenses is high and the company itself is profitable.	No withholding tax is levied on any outgoing interest payments to non-resident company with the exception of interest paid to entities established in blacklisted offshore jurisdictions. **Impact ATAD – GAAR** Latvia has introduced the ATAD limitations on interest deductibility. Namely, if interest expenses exceed EUR 3 million, the excess over the 30% from company's net profit before tax is included into taxable base. With respect to hybrid mismatches, Latvia has introduced specific provisions in the new CIT law as of 1 January 2018. As of 1 January 2013, Latvia introduced local GAAR which stipulates that the tax administration should analyze the taxpayer's transactions not only based on their legal form, but also economic substance. Such provision can be considered as being in line with the ATAD GAAR provisions.	Interest paid to companies resident in the EU or EEA Member State or in a country, with which Lithuania has an effective tax treaty, is not subject to withholding tax. In other cases, withholding tax at the rate of 10% applies. No other requirements need to be fulfilled. **Impact ATAD – GAAR** See Section 3.1 for an explanation of the 'substance over form' principle set forth in Lithuanian legislation and the principal purpose test to be implemented into the Lithuanian treaty network.	No withholding tax is levied on interest paid by a Cyprus company to a non-resident recipient. **Impact ATAD – GAAR** As detailed in 3.1 above, the addition of Article 33(6) to the Income Tax Law allows the Tax Department to disregard artificial arrangements.	No withholding tax is levied on interest payments by a Malta company to a non-resident unless: – the said non-resident is engaged in trade or business in Malta through a permanent establishment situated in Malta and the interest is effectively connected therewith; or – the said non-resident is owned and controlled by, directly or indirectly, or acts on behalf of an individual or individuals who are ordinarily resident and domiciled in Malta. **Impact ATAD – GAAR** Refer to above.

Estonia	Latvia	Lithuania	Cyprus	Malta
Under the rule, the interest payments are excessive and thus subject to CIT, if three cumulative criteria are met: 1) borrowing costs exceed EUR 3,000,000, 2) borrowing costs exceed 30% of EBITDA, and 3) the interest paying company is profitable. Some exceptions apply to this, such as to costs for financing certain infrastructure projects, group-equity-rule and world-wide group-ration rule based on earnings. Credit institutions are not taxed under this rule.				

3.3 Withholding tax on royalties paid by the holding company

Estonia	Latvia	Lithuania	Cyprus	Malta
Royalties paid to non-resident companies are subject to a withholding tax of 10% unless paid to EU or Swiss resident legal persons provided that: – the recipient (or payer) has held at least 25% of the shares in the payer (or recipient) during at least a two-year period; or – at least 25% of the shares in the recipient and the payer have been held during at least a two-year period by the same EU or Swiss resident legal person. When applying double-tax treaties, the most favoured nation clause applies to many treaties with regard to excluding the withholding tax from royalty payments and changing the definition of royalties. The tax exemption is not applied to the part of royalties which exceeds the value of similar transactions conducted between non-associated persons. **Impact ATAD – GAAR** Starting from 1 January 2019, Estonia has adopted General anti-abuse rule, which is set forth in Directive 2016/1164/EU, to national legislation.	No withholding tax is imposed on any outgoing royalty payments except for royalties paid to entities established in black-listed offshore jurisdictions (20% WHT). **Impact ATAD – GAAR** As of 1 January 2013, Latvia introduced local GAAR which stipulates that the tax administration should analyze the taxpayer's transactions not only based on their legal form, but also economic substance. Such provision can be considered as being in line with the ATAD GAAR provisions. **Impact MLI** The MIL will provide, among others, the principle purpose test. See section 7 below.	Royalties are subject to a withholding tax of 10%. Royalties paid to the associated enterprises covered by the Interest and Royalties Directive (EU companies) are exempt from withholding tax provided that the recipient of the interest payment is an associated company of the paying company, is resident in another EU Member State and is compliant with the criteria set forth in the Directive regarding business form, being a tax payer and a beneficial owner of the royalties. Two companies are 'associated companies' if (a) one of them holds directly at least 25% of the capital of the other or (b) a third EU company holds directly at least 25% of the capital of the two companies. A minimum holding period of two years is required. **Impact ATAD – GAAR** See Section 3.1 for an explanation of the 'substance over form' principle set forth in Lithuanian legislation and the principal purpose test to be implemented into the Lithuanian treaty network.	No withholding tax is levied on royalties paid by the Cyprus company unless the rights are used in Cyprus by a non-Cyprus tax resident, in which case there is a 10% withholding tax (5% on film royalties). **Impact ATAD – GAAR** See 3.1 above.	No withholding tax is levied on royalty payments by a Malta company to a non- resident unless: – the said non-resident is engaged in trade or business in Malta through a permanent establishment situated in Malta and the royalties are effectively connected therewith; or – the said non-resident is owned and controlled by, directly or indirectly, or acts on behalf of an individual or individuals who are ordinarily resident and domiciled in Malta. **Impact ATAD – GAAR** Refer to above.

Estonia	Latvia	Lithuania	Cyprus	Malta
In general, a similar rule already existed in Estonian law. However, one of the specifications is that an arrangement is also considered not genuine if one of the main purposes of it is to obtain a tax advantage. Previously, according to the substance over from principle, the requirement was that it had to be the main purpose. Therefore, with adoption of the rule, re-qualification of arrangements has been made easier for the tax authority. According to the addition, for the purposes of calculating the corporate tax liability, the tax authority must ignore an arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defies the object or purpose of the applicable tax law, are not genuine having regard to all relevant facts and circumstances. **Impact MLI** Estonia signed the MLI on 29 June 2018, it was ratified on 13 December 2019 and came into force on 28 December 2019. The MLI affects 58 double tax treaties.				

4. Non-resident capital gains taxation – domestic legislation and tax treaties

Estonia	Latvia	Lithuania	Cyprus	Malta
Non-residents are subject to tax only on their Estonian-source income taxable under the Estonian law. Permanent establishments, on the other hand, are generally treated similarly to resident legal persons, whereby they pay tax on the profit distributed by them. Income tax is levied on gains derived by a non-resident from a transfer of property or shares in a company, contractual investment fund or other pool of assets which, at the time of the transfer or during a period within two years prior to the transfer, consisted of more than 50% directly or indirectly immovable property located in Estonia and in which the non-resident had a holding of at least 10% at the time of conclusion of the specified transaction. There is no income tax charged on a share deal if tax treaty allows taxation of capital gains in seller's country only.	Capital gains derived by corporate non-residents are not taxable except for capital gains which are derived from the alienation of real estate or a direct or indirect participation in a qualifying real estate company. If real estate or shares in a real estate company are sold by a Latvian resident or permanent establishment of a non-resident to a non-resident, a 3% withholding tax applies to the gross consideration paid by a Latvian tax resident or a permanent establishment of a non-resident. If the vendor is a non-resident, the tax is payable by assessment. The vendor – resident company of EU/EEA Member State or a tax treaty partner country – is allowed to recalculate the tax payable as 20% from profit realised from the sale of real estate or shares in a real estate company and request a refund if the tax withheld exceeds the calculated 20% from profit. Gains from alienation of shares derived by non-resident individuals are not subject to Latvian taxation if these are financial instruments governed by the Latvian Financial Instrument Market Law.	The business profits of foreign entities will be taxable only in their home countries, unless foreign entities carry on business in Lithuania through a permanent establishment situated in Lithuania (in which case the taxation rules are similar to those attributable to resident entities), or receive income via cross-border transfers that are subject to withholding taxes (including income received from lease or transfer of real estate, interest, dividends, royalties or annual bonuses for members of a supervisory board). Therefore, a non-resident company is subject to income tax in respect of income and capital gains that are attributable to a permanent establishment. Capital gains on the sale of securities in a resident company are not taxable for non-residents. Under the general rule, capital gains of a non-resident company should be taxable only in its home country, except transfer of real estate and transfer of the assets attributable to the permanent establishment in Lithuania.	In general, capital gains realised on the transfer of shares by non-residents are fully exempt from taxation in Cyprus. Capital gains tax will be payable on the transfer of the shares only if and to the extent that the gain derives directly or indirectly from immovable property situated in Cyprus (catching so-called double-tiered structures). Gains deriving from immovable property acquired between 16 July 2015 and 31 December 2016 (both dates inclusive) provided that (1) the property was transferred or that the sale agreement was deposited with the Land Registry by the 31st of December 2016 and (2) it was acquired at arm's length and not under the foreclosure provisions of the Transfer and Mortgage of Immovable Properties Law, are exempt from capital gains tax, regardless of the date of disposal, given that a transaction does not occur within the business activity of a person or a company. Most of Cyprus's double tax agreements provide that the country in which the seller is resident has taxing rights over gains on disposal of shares. Some, but by no means all, of the agreements provide that for disposals of shares in 'property-rich' companies, the country in which the property is situated has taxing rights.	Capital gains realised by a non-resident on the transfer of chargeable shares or securities in a Malta company would be exempt from Malta income tax on capital gains unless: – it is a 'property company' as defined by law; or – the said non-resident is owned and controlled by, directly or indirectly, or acts on behalf of an individual or individuals who are ordinarily resident and domiciled in Malta. In general (with the exception of real estate companies), taxation will be attributed to the country where the non-resident shareholder is tax resident by virtue of the applicable tax treaty.

5. Anti-abuse provisions / CFC rules

Estonia

General

There is a general anti-avoidance rule enacting the principle of economic substance. Specific measures to combat the erosion of the taxable base through payments to low-tax countries include the following:

- fees paid to companies resident in low-tax territories for services rendered to Estonian residents are subject to a 20% withholding tax irrespective of where the services were provided or used; and
- various payments made, or benefits provided, to recipients resident in low-tax territories are regarded as non-business expenses for CIT purposes.

CIT liability incurs for the payer acquiring securities of shares of, or claims against, or issuing loans to a company in a low-tax country.

Additionally, starting from 1 January 2019, Estonia has adopted General anti-abuse rule (GAAR), which is set forth in Directive 2016/1164/EU (the Anti-Tax Avoidance Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market), to national legislation. In general, a similar rule (principle of economic substance) already existed in Estonian law.

Latvia

General

The general anti-avoidance rule has been introduced as from 1 January 2013, specifying that economic substance of a transaction should be considered, not only its legal form. In addition, any payments to companies or other persons established in black-listed offshore jurisdictions are subject to 20% CIT or 23% personal income tax, respectively. Limited exceptions apply to payments for goods and payments for acquisition of EU / EEA publicly traded shares made to offshore jurisdictions if the price is arm's length.

CFC rules

Under Latvian CIT law transposing ATAD, a part of the profit or increase of the value of assets of CFC or a foreign permanent establishment derived from non-genuine arrangements is included in the taxable base of a Latvian company.

Lithuania

CFC rules

The CFC regulations apply to Lithuanian companies that: (i) alone or together with associated persons own, either directly or indirectly, more than 50 percent of the shares (stakes, shares in a cooperative organisation), voting rights or rights to a portion of distributable profit, or exclusive rights to acquire them on the last day of that foreign entity‘s tax period, or (ii) hold a permanent establishment whose income exclude from the tax base of Lithuanian entity, provided that such controlled foreign tax entity is:

- registered or otherwise organised in the targeted territory; or
- the passive income of a controlled foreign entity exceeds 1/3 of the total income of a tax period of that controlled foreign entity; and
- in its home country is taxed at an actual income tax that is lower than 50 per cent of an actual corporate tax which would have been calculated of the income of that controlled foreign entity with the Lithuanian CIT.

Subject to established requirements non-taxable income, allowable deductions or deductions allowable under limited values that are related to earning of that income can be deducted in calculating positive income.

Cyprus

CFC rules

As of January 2019, CFC rules have been put in place which are in accordance with the ATAD.

Impact ATAD – CFC legislation / thin capitalisation rules / EBITDA

A CFC is defined as an entity or a permanent establishment (PE) whose income is not taxable or exempt in Cyprus if the following two conditions are met:

a) in the case of a non-Cypriot tax resident entity, the Cypriot tax resident company alone or together with its associated enterprises, holds a direct or indirect participation of more than 50% in such an entity; and
b) the company or PE is low-taxed (i.e. the income tax it pays is lower than 50% of the Cypriot corporate income tax that it would have paid by applying the provisions of the Cypriot income tax law). Cyprus has opted for Model B since it gives states the ability to 'carve out' CFCs via the thresholds provided by ATAD.

'Carving out' would apply to entities that (i) have accounting profits of less than EUR 750,000 and nontrading income of less than EUR 75,000, or (ii) have accounting profits of no more than 10% of operating costs.

Malta

CFC rules

CFC rules were introduced as from 1 January 2019.

Anti-abuse provisions

The Malta Income Tax Act and subsidiary legislation provides for a number of anti-avoidance measures (such as in Articles 12(1)(u) (2) proviso 1, 19, 42, 43, 46, 51 and 95).

Probably the most encompassing provision is Article 51, which is of general application and states that artificial or fictitious schemes can be disregarded. It is possible, however, to obtain advance certainty on whether Article 51 will be invoked by the Revenue.

Article 42 contains an 'abuse of law' concept in the limited context of domestic investment income provisions. Within this context, should the Malta tax authorities consider that a series of transactions are made with the sole or main purpose of reducing the amount of tax payable, the said person would be assessed as though the investment income provisions (which provide for a flat rate of taxation) are not applicable.

Estonia	Latvia	Lithuania	Cyprus	Malta
However, regarding GAAR, one of the specifications is that an arrangement is also considered not genuine if one of the main purposes of it is to obtain a tax advantage. Previously, according to the substance over from principle, the requirement was that it had to be the main purpose. Therefore, with adoption of the rule, re-qualification of arrangements has been made easier for the tax authority. According to the addition, for the purposes of calculating the corporate tax liability, the tax authority must ignore an arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defies the object or purpose of the applicable tax law, are not genuine having regard to all relevant facts and circumstances. **CFC rules** Under the new CFC rules in force from 1 January 2019, certain income from a foreign company or permanent establishment is assigned to an Estonian company and is taxed accordingly.	An arrangement or a series thereof is regarded as non-genuine to the extent that the entity or permanent establishment would not own the assets or would not have undertaken the risks which generate its income if it were not controlled by a company where the significant administrative management functions which are relevant to those assets and risks, are carried out or are instrumental in generating the controlled company's income. The definition of CFC corresponds to Article 7(a) of the ATAD. Latvia has made use of the option to exclude from the scope of the CFC rule an entity or permanent establishment with accounting profits of no more than EUR 750 000, and non-trading income of no more than EUR 75 000, except entities and permanent establishments in blacklisted offshore jurisdictions. **Thin capitalisation rules** Two thin capitalisation tests apply. Firstly, allowable interest is calculated on a maximum debt / equity ratio of 4:1. Secondly, if borrowing costs exceed EUR 3 million, the excess over the 30% from company's net profit before tax is included into taxable base.	**Thin capitalisation rules** Interest and currency exchange losses on the debt in excess of the debt / equity ratio of 4:1 are non-deductible for CIT purposes. This is applicable in respect of the debt capital provided by a creditor, who: – directly or indirectly holds more than 50% of shares or rights (options) to dividends; – together with related parties, holds more than 50% of shares or rights (options) to dividends, and the holding of that creditor is not less than 10%; or – belongs to the same group of entities as a borrower. This rule is not applicable if a taxpayer proves that the same loan could exist between unrelated parties under the same conditions. Financial institutions providing financial leasing services are not affected by this rule. Notably, thin capitalisation also applies to interest variable depending on the profits or turnover of the company and costs of currency exchange results. Furthermore, it should be noted that under Lithuanian company law, the interest rate on shareholders' loans may not exceed the average bank interest rate valid in the location of the lender's business.	Article 33 of the Income Tax Law enables the Tax authorities to adjust taxable profits if it is considered that they have been affected by transactions not on an arm's-length basis. The implementation of an exit tax is in effect and applied retrospectively as of 1 January 2020. The exit tax shall amount to the market value, at the time of exit, of the transferred assets minus their value for tax purposes derived from a limited set of circumstances. As to thin capitalization rules, Cyprus again follows the provisions of the ATAD since 1 January 2019. Limitation on the possibility of deducting interest is set at 30% of taxable income before interest, taxes, depreciation and amortization (EBITDA). Taxable EBITDA is defined as the total of net taxable income calculated in accordance with Cypriot income tax laws increased by the exceeding borrowing costs. The restriction does not apply for amounts below EUR 3 million per taxpayer.	Article 46 provides, inter alia, for the re-characterisation into dividends of amounts advanced by a company to shareholders, any distribution of assets made to the shareholders or any amounts repaid by the company in settlement of amounts due by shareholders. Anti-abuse provisions as set out in Section 2.2. above, apply for the purpose of determining the eligibility for participation exemption or full refund of tax. The anti-abuse provisions in article 51 extend also to the benefits of EU Council Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (as amended) and the said benefits shall not be granted to any arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or purpose of the said EU Council Directive 2011/96/EU, are not genuine having regard to all relevant facts and circumstances.

Estonia

Income tax is levied on the portion of the income of a foreign controlled company derived from such assets and risks which are related to the key employees of the controlling company and derived from ostensible transactions the main purpose of which was to obtain a tax benefit.

It is remarkable that Estonia will not apply the tax rate applicable to a foreign company. Therefore, if the revenue of the foreign controlled company is derived from ostensible transaction, and there should not have been such transaction, then Estonia is entitled to charge tax on that transaction. In this case, it does not matter at how high rate the revenue of the foreign controlled company is taxed.

When applying the tax, the central question is whether the chain of transactions with foreign company has been ostensible. It is assessed on the basis of distribution of risks and resources.

Latvia

The higher amount of the excess interest calculated under either method is subject to CIT.

Financial and insurance institutions are not subject to the thin capitalisation rules.

Impact ATAD – CFC legislation / thin capitalisation rules / EBITDA

Starting from 1 January 2018 Latvia in CIT law has introduced EU ATAD interest limitation rule – taxpayers are allowed to deduct exceeding borrowing costs up to EUR 3 million. If this limitation is reached, the taxpayer must include in the tax base interest amount exceeding 30% of the taxpayer's earnings before CIT tax, interest and depreciation.

In addition, the participation exemption applies only if the inbound dividends had not been deducted from the taxable income of the company distributing the dividends.

Impact ATAD – hybrid mismatch rules

As of 12 February 2020, Latvia has introduced anti-hybrid mismatch measures on the basis of ATAD2.

Lithuania

Transfer pricing rules: transactions between associated entities must be at arm's length. The regulations have been prepared following the OECD Transfer Pricing Guidelines.

Impact ATAD – CFC legislation

See Section 5 "CFC rules".

Impact ATAD – thin capitalisation rules / EBITDA

In addition to applicable thin capitalisation rules, rules determining interest expense limitations are established in Lithuania. Companies are able to deduct only interest expenses that:

– do not exceed interest income; and
– exceed interest income but the excess does not exceed the following thresholds:
  - 30% unit EBITDA (profit before interest, taxes, depreciation and amortization); or
  - EUR 3 000 000.

The aforesaid limitations are applicable to all group companies or companies with related undertakings.

Cyprus

The restriction does not apply to companies not forming part of the group and those that do not have a related business (participation of at least 25% in the share capital or participating at least 25% in the profits).

The law also excludes financial undertakings from the scope of the interest limitation rules (i.e. credit institutions, investment firms, alternative investment fund managers (AIFMs) and management companies of undertakings for collective investment in transferable securities (UCITS)).

Hybrid mismatch rules

In relation to the rules on hybrid mismatches, legislation was published on 3 July 2020 and is in line with the ATAD provisions. Hybrid mismatch rules will apply retrospectively as of the 1st of January 2020.

If there is double taxation via a hybrid mismatch, the deduction should be denied in Cyprus if it is the investor jurisdiction. If Cyprus is the payer jurisdiction, the deduction will be denied if it is not denied by the investor jurisdiction.

Malta

Impact ATAD – CFC legislation / thin capitalisation rules / EBITDA / hybrid mismatch rules

On 11 December 2018, the provisions of ATAD 1 were transposed into the laws of Malta by L.N. 411 of 2018 (L.N. 411). Furthermore, L.N. 348 of 2019 (L.N. 348) and L.N. 29 of 2020 (L.N. 29) ATAD 1/2 put forward some major tax policy changes to Maltese law as it provided for certain norms that were previously not contemplated. Among these new rules are structured mandatory CFC rules aimed at deterring profit shifting to a low/no tax country.

In terms of the newly introduced CFC rules, the non-distributed income of low-taxed CFCs arising from 'non-genuine arrangements which have been put in place for the essential purpose of obtaining a tax advantage' must be included in the tax base of the Maltese taxpayer, limited to amounts generated through assets and risks which are linked to significant functions carried out by the Maltese taxpayer.

L.N. 411 provides for the *de minimis* thresholds for CFCs allowed by ATAD 1. Exit taxes as envisaged by ATAD 1 are another new concept introduced in the said legal notice.

Estonia

The chain of transactions shall be regarded as ostensible to the extent that the entity or permanent establishment would not own the assets or would not have undertaken the risks which generate all, or part of, its income if it were not controlled by a company where the significant people functions, which are relevant to those assets and risks, are carried out and are instrumental in generating the controlled company's income.

Thin capitalisation rules

With effect from 1 January, 2019, the exceeding borrowing cost limitation rule was introduced to Estonian law. As a result of change, it is considered that, from a certain amount, payable interest rates are not economically justified (business related in the sense of the current law).

Due to that, excessive interest payments are taxed with corporate income tax. First and foremost this rule requires attention of those companies, where the percentage of interest expenses is high and the company itself is profitable.

Latvia

Similar to ATAD2, hybrid mismatches targeted by the rules include hybrid financial instruments, hybrid entities, hybrid permanent establishments and dual resident entities.

The anti-hybrid measures in essence contain two types of rules:

i. Denial of deduction: deduction of payments by a Latvian corporate tax payer will be denied in case the payment is not regarded taxable income in the state of a recipient as a result of a hybrid mismatch (D/NI) or in case payments can be deducted twice as a result of such hybrid mismatch (DD).
ii. Inclusion in income: it will be required to include in the taxable income of a Latvian corporate tax payer the payments to such tax payer, which would normally be exempt from Latvian corporate income tax or would not be recognised as income, but nevertheless can be deducted in the state of the payer due to a hybrid mismatch.

To fall within the scope of the anti-hybrid rules, these hybrid mismatches must occur between “associated enterprises” or “parties to a structured arrangement”.

Lithuania

Along with the interest deduction limitation rules, the definition of a group of companies is also expanded to include indirectly controlled companies and companies in which the parent undertaking directly or indirectly owns more than 25% of the voting rights or rights to a part of the distributable profits or exclusive rights to acquire them (i.e. not only stocks and shares).

For a company that belongs to a group, interest expenses will have to be calculated for all Lithuanian companies in that group and for permanent establishments of foreign companies in Lithuania (except financial institutions and insurance companies).

Companies whose financial statements are included in group consolidated financial statements and whose equity-to-total-assets ratio is not more than 2 percentage points lower than the corresponding group of companies' ratio as determined by the consolidated financial statements of the group, will be able without restriction to deduct all interest expenses exceeding interest income.

Cyprus

Any such deduction is eligible to be set off against dual inclusion income from either current or subsequent tax periods. However, a Member State can deny a deduction if any payment directly or indirectly funds deductible expenditure that results in a hybrid mismatch.

Cyprus law follows but does not go beyond ATAD II's mandatory minimum standards. Moreover, Cyprus has opted for all possible exceptions provided for by ATAD II if a hybrid mismatch results in double deduction or deduction without inclusion.

NID does not give rise to issues of hybridity. The rules apply to both Cypriot tax resident companies as well as foreign companies that have a PE.

The following hybrid mismatch arrangements apply: (a) hybrid entity mismatch, (b) hybrid transfers, (c) hybrid permanent establishment mismatch leading to double deduction, (d) imported mismatches, (e) reverse hybrid mismatches, and (f) tax residency mismatches.

Overall, the rules do not affect the allocation of taxing rights under tax treaties.

Malta

Updated interest limitation rules have also been introduced by way of L.N. 411. These new rules limit the deductibility of exceeding borrowing costs to 30% of the taxpayer's EBIDTA or a higher percentage if the taxpayer can demonstrate that the ratio of its equity over total assets is equal to or higher than the equivalent ratio of the group. L.N. 411 also puts forward a general anti-abuse rule (GAAR) to counteract aggressive tax planning. The wording of the GAAR contemplated by ATAD is comparable to the wording already contained in Article 51 of the Income Tax Act. The provisions of L.N. 411 are now in full force and apply to all companies as well as other entities, trusts and similar arrangements that are subject to tax in Malta in the same manner as companies, including entities that are not resident in Malta but have a permanent establishment in Malta provided that they are subject to tax in Malta as companies.

Further legislative changes and guidelines are expected on these matters.

Estonia

Under the rule, the interest payments are excessive and subject to CIT, if three cumulative criteria are met: 1) borrowing costs exceed EUR 3,000,000, 2) borrowing costs exceed 30% of EBITDA, and 3) the interest paying company is profitable. Some exceptions apply to this, such as to costs for financing certain infrastructure projects, group-equity-rule and world-wide group-ration rule based on earnings. Credit institutions are not taxed under this rule.

Besides the above excessive loan cost rules, Estonia does not have additional thin capitalization rules for tax purposes.

Impact ATAD – CFC legislation, thin capitalisation
Regarding CFC legislation and thin capitalisation rules, please see above.

Impact ATAD – hybrid mismatch rules
ATAD based hybrid mismatch rules are in force from 01.01.2020 in the form of a new chapter in the Estonian Income Tax Act. There were no previous hybrid mismatch rules in place in Estonia.

Latvia

The term “associated enterprises” is in principle defined as an entity in which the taxpayer holds directly or indirectly an interest of ≥50%, whereby the interests of parties that are considered to be “acting together” are aggregated. The term also covers entity that forms part of the same consolidated group for financial accounting purposes as a taxpayer, an entity in which a taxpayer has a significant influence in the management and *vice versa*.

Unrelated parties are targeted by the provisions regarding “structured arrangement”, in which the hybrid mismatch outcome is provided in the terms of the arrangement or an arrangement that has been designed to produce hybrid mismatch outcome. If the taxpayer or an associated enterprise that qualify as parties to a structured arrangement do not benefit from the mismatch, and can reasonably not be expected to be aware of this mismatch, the rules will not apply.

Lithuania

It is noteworthy that the rules limiting interest deduction do not apply to financial institutions and insurance companies, or to interest on loans for long-term public infrastructure projects.

Impact ATAD – hybrid mismatch rules
For hybrid mismatches related to dividends, see Section 2.2.

Impact ATAD 2 – Hybrid mismatch rules
Lithuanian rules state that when the payment is deductible in both countries, or deductible in one country and non-taxable in another, tax discrepancies are neutralized by treating such payment as non-deductible expense or taxable income in Lithuania.

Cyprus

Transfer pricing rules
Significant changes to the taxation of back- to-back financing arrangements between related companies took effect on 1 July 2017. The previous minimum margin scheme, which provided for a deemed interest rate to be imputed for tax purposes, was abolished and replaced with detailed transfer pricing legislation based on the OECD transfer pricing guidelines. Under the new rules, intragroup financing transactions will be evaluated to ensure that the agreed remuneration complies with the arm’s length principle. There is a simplified regime for a limited range of transactions. Outside this limited range, a full transfer pricing analysis must be performed in order to determine arm’s length remuneration.

The arm’s length principle is already incorporated in Article 33 of the Income Tax Law, which allows the tax authorities to adjust reported taxable profits if transfer prices agreed between related parties differ from the prices that would have been agreed between independent entities.

Malta

Furthermore, the introduction of L.N. 29 has put forward the introduction of rules pertinent to Hybrid Mismatches are applicable as from 1st January 2020 and 1st January 2022 in the case of reverse hybrid mismatches.

Hybrid Mismatches effectively occur in two contexts a i. mismatch outcome and a ii. hybrid mismatch:

Mismatch outcome

i. A ‘double deduction’ where a deduction of a payment, expense or loss is claimed in the jurisdiction in which the payment has its source, the expenses are incurred or the losses are suffered (i.e. the payer jurisdiction), and in another jurisdiction (i.e. the investor’s jurisdiction);
ii. A ‘deduction without inclusion’ where:
    a. a deduction of a payment is claimed in any jurisdiction in which that payment is made, without a corresponding inclusion for tax purposes of that payment in the payee jurisdiction; or;

Estonia	Latvia	Lithuania	Cyprus	Malta
Given the specifics of Estonian CIT system (taxation of profits upon its distribution), a deduction restriction deriving from ATAD's primary rule, cannot be established in Estonia (since no deduction of expenses is made in the ordinary sense). Instead, the amount that caused discrepancy in the taxation of other non-business expenses must be taxed, as an ineligible expense. Thus, if the head office or shareholder of a hybrid unit is a company resident in Estonia or a non-resident legal person through a permanent establishment located in Estonia, it pays income tax on the amount that can be deducted in the payer's jurisdiction. If the payer's jurisdiction allows a tax deduction, then the amount of the payment that would result in a mismatch because of that, shall be added to the revenue in the Member State which has jurisdiction over the Payee.	Under the imported mismatch rule, Latvia will deny a deduction of any payment (e.g. interest payment) by a taxpayer to the extent: – such payment, directly or indirectly, through a transaction or series of transactions; – between entities associated with the taxpayers or under a structured arrangement; and – fund deductible costs to which the Latvian anti-hybrid rules would have applied. The 'funding of hybrid mismatches' may occur by means of multiple intermediary transactions between the Latvian taxpayer and the foreign entity causing the hybrid mismatch. It is further required that a connection exists between all transactions in the series of transactions. The rule does not apply if another country involved has made a similar adjustment as prescribed by the Latvian rules.	According to them, CIT in Lithuania shall be relevant: 1. Towards the amount of any payment received, when the payment is deductible in a foreign country and not included into taxable income in Lithuania. This rule shall not apply in cases where the mismatch is related to income or costs of permanent establishment. 2. When the payment is deductible in two countries. The amount of payment deducted from taxable income under the laws of foreign country shall be considered to be non-allowable deductions in Lithuania. 3. When the payment is deductible in one country and not included into taxable income in another. The amount of payment shall be considered to be non-allowable deductions in Lithuania. 4. When a Lithuanian taxpayer is considered a resident for tax purposes in two or more countries and his payment is deductible from the tax base in two or more countries. The amount of payment made by the taxpayer shall be considered to be non-allowable deductions in Lithuania.	Cyprus does not currently contain a list of permissible pricing methods. Instead, the law incorporates a general requirement based on the use of the arm's-length standard and requires that all documentation support said standard. There are no penalties for improper transfer pricing but general penalties can potentially apply.	b. a deduction for a deemed payment between the head office and a permanent establishment, or between two or more permanent establishments, in any jurisdiction in which that deemed payment is treated as made, without a corresponding inclusion for tax purposes of that deemed payment in the payee jurisdiction. **Hybrid Mismatch** i. Payments made under financial instruments where the mismatch outcome is attributable to the differences in the characterisation of the financial instrument or the payment made under it; ii. Payments made to or by a 'hybrid entity' where the mismatch outcome is the result of differences in the allocation of payments, iii. Payments made to an entity with one or more permanent establishments where the mismatch outcome results from differences in the allocation of such payments between the head office and its permanent establishments.); and

Estonia	Latvia	Lithuania	Cyprus	Malta
Taxing hybrid units in Estonia concerns trust funds as they are tax transparent. From 01.01.2022, if a shareholder of a trust fund is a non-resident affiliated company holding in aggregate at least 50 per cent interest of the holding in the trust fund, then the trust fund or its manager shall pay income tax on the income that would have been allocated to a shareholder of the trust fund in proportion to its share in the trust fund. That also applies when the shareholder is located in a jurisdiction that regards the trust fund as a person liable to income tax and this income is not taxed or the legislation of another jurisdiction.	The reverse hybrid rule will be applicable as of 1 January 2022. Under this rule, an entity that is considered tax transparent in Latvia, but non-transparent in another jurisdiction (for the purposes of ≥50% test), will be treated as a tax resident of Latvia and taxed on its income, unless its income is not otherwise taxed under the laws of Latvia or any other jurisdiction. Under the dual residence mismatch rule, to the extent that a deduction for payment, expenses or losses of a taxpayer who is tax resident in Latvia and in another country is deductible from the tax base in both countries, Latvia will deny the deduction to the extent that the other country allows the duplicate deduction to be set off against income that is not dual-inclusion income. If under a double tax treaty with another EU Member State, the taxpayer is not deemed to be a resident in Latvia, the payment, expenses or losses will be included in the taxable income of the taxpayer in Latvia.	5. When the payment directly or indirectly funds deductible expenditure giving rise to a hybrid mismatch through a transaction or series of transactions between associated persons or entered into as part of a structured arrangement. The amount of payment made by the taxpayer shall be considered to be non-allowable deductions in Lithuania. **Impact ATAD 2 – Exit taxation** According to the Lithuanian legislation, the exit tax shall be applied on capital gains from the transfer of asset or business from Lithuania to another country for a period not shorter than 12 months. The assets used as an advance payment or pledge are exempt from exit tax. Exit tax may be divided into parts over 5 years when an asset or business is being transferred to a foreign country that is in the EEA.		iv. Payment deductible in Malta, directly or indirectly, funds a deductible expenditure in a non-EU jurisdiction and this deduction involves a hybrid mismatch). Corrective mechanisms are put in place to ensure that no mismatch outcome occurs

6. Tax and investment incentives

Estonia	Latvia	Lithuania	Cyprus	Malta
Due to the nature of the Estonia CIT system, there are no special tax incentives but the system itself can be seen as an incentive that enables indefinite deferral for taxing corporate profits. Debt financing does not trigger limitations on the deductibility of interest, unless ATAD based loan cost limitation rule applies. Merger, division and reorganization are generally tax neutral. Transfer of a business belonging to the permanent establishment to another company is not taxed with CIT and not treated as distribution of profits, provided the business is transferred in the form of non-monetary contribution, or in the course of merger, division or transformation if economic activities are continued in Estonia through such enterprise.	There are free ports and special economic zones in Latvia established to promote export and providing tax relief up to 100% for real estate tax, 80% for CIT, as well as extended loss carry forward period and 0% VAT. Latvia has established three special economic zones (SEZs): (1) Liepaja Special Economic Zone; (2) Rezekne Special Economic Zone; and (3) Latgales Special Economic Zone. In addition, there are two free ports that carry the same tax benefits as SEZs: Riga and Ventspils. SEZs and free port benefits were recently extended to 2035 (from an original expiration of 2017). Currently, the incentives provided to companies operating in an SEZ or free port are 80 percent credits against corporate income tax, real estate tax, and withholding taxes up to a cumulative maximum amount of 50 percent of the amount invested in the SEZ or free port (35 % of investment for small enterprises,45 % of investment for medium-sized enterprises and 55 % for small enterprises) up to a maximum investment of 50 million euros.	Exemption from CIT for the first 10 years and reduction of CIT by 50% for the next 6 years may be enjoyed by companies established and operating in Lithuanian free economic zones (the aforesaid exemption and reduced rate's application is subject to other conditions). The taxable profit of legal entities running investment projects, i.e. investing in the fixed assets intended for the production of new, additional products or the provision of new, additional services or for the increase of production (or service provision) capacities, or for the introduction of a new production (or service provision) process, or for the substantial change of an existing process (or its part), as well as for the introduction of technologies protected by international invention patents, may be reduced by up to 100%. The balance of unused relief may be carried forward to the subsequent four years. Taxable profits may be reduced by the expenses incurred during 2009-2023 tax periods.	The following categories of income are tax exempt: – profit from the sale of securities; – dividends; – income of any company formed exclusively for the purpose of promoting art, science or sport, and of certain educational and charitable companies; – profits earned or dividends paid by a Cyprus shipping company which owns ships under the Cyprus flag and operates in international waters; – income of any approved pension or provident fund; and – profits from a permanent establishment situated entirely outside Cyprus, unless the permanent establishment directly or indirectly engages more than 50% in activities which lead to investment income and the foreign tax burden is substantially lower than the tax burden in Cyprus. In 2012 Cyprus introduced an 'intellectual property box' regime which provides an effective tax rate of less than 2.5% on income from intellectual property assets.	A number of investment incentives are available to enterprises conducting certain prescribed qualifying business activities such as the manufacturing or processing of goods in Malta or the production of feature or television films, advertising programmes, commercials, and/or documentaries. Malta Enterprise offers the following incentives: – an incentive for foreign investors already operating in Malta to increase the scope of their existing operations to such areas as legal, financial, back office, logistical, research and development, marketing and sales and prototyping services; – an incentive to attract new foreign companies to set up shared services centres in areas such as call centres, software development, digital gaming, human resources, accounts and finance management, market research and internet publication; – There is also an exemption in the case of royalty or similar income derived from patents in respect of inventions, copyright or trademarks. Malta has also recently introduced the Patent Box Regime (Deduction) Rules through L.N. 208 of 2019.

Estonia	Latvia	Lithuania	Cyprus	Malta
	This means that up to the investment cap, eligible companies pay CIT at a 4 % rate and real estate tax at a 0.3 % rate (withholding rates vary based on type of income). In addition, SEZ/ free port companies are exempt from VAT on most goods and services sold in the zone or port or exported out of them. A specific tonnage tax applies for vessels registered in Latvia and PIT reliefs to sailors' salaries apply. The Latvian tax system with no CIT on reinvested profits can be seen as an incentive that enables deferral for taxing corporate profits.	Expenses, except for depreciation or amortisation costs of fixed assets, incurred in terms of research and development may be deducted from taxable income in triple amount in the corresponding tax year, provided that the R&D activities are in accordance with the usual activities or intended activities of the entity from which income or other economic benefit is or will be derived. Fixed assets that are used for R&D may be depreciated (amortised) under accelerated depreciation (amortisation) rates. Moreover, the portion of taxable profit from the use or sale of assets created by the company itself in terms of research and development activities (including royalties and compensations for infringing intellectual property rights), after allowable deductions, is taxable at a rate of 5%.	The regime was amended with effect from 30 June 2016 to comply with the 'modified nexus' approach, with grandfathering provisions for assets already in the scheme. Following the adoption of the modified nexus approach under action 5 of the G20/OECD base erosion and profit shifting project the IP box regime applies to a more limited range of assets than previously. New arrangements for intellectual property assets have been developed as from 1 July 2016. As a result, qualifying assets are restricted to patents, software and other IP assets which are legally protected. Intellectual property rights used to market products and services, such as business names, brands, trademarks and image rights, do not fall within the definition of qualifying assets.	Tax incentives aimed at particular sectors such as the aviation sector provide specific legislation catering for allowances, exemptions and investment tax credits that are specific to the industry.

Estonia	Latvia	Lithuania	Cyprus	Malta
		Lithuanian entities and permanent establishments situated in Lithuania and within the period as of 1 January 2019 until 31 December 2023 donating to the film industry may deduct up to 75% of donation from its taxable income provided that the following conditions are met: (i) at least 80% of the expenses of the film or its part are incurred in Lithuania; and (ii) all expenses incurred in Lithuania are not less than EUR 43,000; and (iii) no more than 30% of the expenses of the film are financed from donations. Moreover, the taxable profit may be reduced by the donated amount but no more than 75%. New CIT exemption for large projects came into force from 1 January 2021. Newly established Lithuanian and foreign capital-based investment projects may be exempt from CIT for a period of 20 years (or until the maximum state aid is reached).	Relief is geared to the cost incurred by the taxpayer in developing the intellectual property through its research and development activities, and costs of purchase of intangible assets, interest, costs relating to the acquisition or construction of immovable property and amounts paid or payable directly or indirectly to a related person are excluded from the definition of qualifying expenditure. Unlike the case under the original scheme, 80% of the "qualifying profit" rather than a general 80% on "accounting profit" is granted as an additional deduction. Nevertheless, the IP Box Regime continues to provide considerable tax savings, and companies that joined the scheme before June 2016 can look forward to benefiting from substantial savings until mid-2021. Gains on disposal are effectively tax-exempt.	

Estonia	Latvia	Lithuania	Cyprus	Malta
		The exemption is subject to the following conditions: i. capital investment to an entity should be at least EUR 20 million (when investing in Vilnius - at least EUR 30 million), also an auditor's confirmation on the amount is required; ii. an entity must create at least 150 (when investing in Vilnius - at least 200) new full-time jobs and commit to keep them for at least 5 years; iii. at least 75% of entity's revenue should consist of revenue from (1) manufacturing, or (2) data processing, or (3) internet server services (hosting) and related activities; iv. an investment agreement with the Government of the Republic of Lithuania would be required. In order to benefit from the exemption all above named conditions should be met.	The Merchant Shipping (Fees and Taxing Provisions) Law of 2010, amended by Law 39(I)/2020, allows qualifying shipowners, ship managers and charters, who have qualifying ships engaged in qualifying activities, the ability to be taxed based on the tonnage of the vessel. The current tonnage tax system has been amended following negotiations with the EU Commission and has been extended until 31 December 2029. In 2015 the Income Tax Law was amended to introduce a notional interest deduction (NID) for tax purposes on new equity capital (paid-up share capital and share premium) injected into companies and permanent establishments of foreign companies on or after 1 January 2015 to finance business assets which can reduce the tax liability of the Cyprus company up to 80%. The NID is calculated by applying a reference rate to the new equity.	

Estonia	Latvia	Lithuania	Cyprus	Malta
			Cyprus Income Tax (Amending) Law 66(I)/2020 amended NID rules. The following amendments were made: – The reference rate is now the ten-year government bond yield of the country in which the assets funded by the new equity are utilized, plus five percent. The bond yield rates to be used are from December 31 of the preceding tax year. The ten-year Cyprus government bond will only be used if a country has not issued any government bond up until 31 December of the previous year. – "New equity" is equity that is introduced on or after 1 January 2015. Equity that is derived from reserves existing on 31 December 2014, which is not related to the financing of new assets used in the business will no longer be considered new equity as of January 2021.	

7. MLI and income tax treaties

7.1 Signatory to the MLI / ratification

Estonia	Latvia	Lithuania	Cyprus	Malta
Estonia signed the MLI on 29 June 2018 , it was ratified on 13 December 2019 and came into force on 28 December 2019. The MLI affects 58 double tax treaties.	Latvia has ratified MLI agreement on 7 June 2019, and it entered into force on 1 February 2020. Latvia has opted to apply the MLI to tax treaties with 59 countries, out of which 48 countries have notified a mutual intention to apply MLI to Latvia. At the moment of its entry into force, MLI is applicable with 25 countries. The compliance of some tax treaties with the MLI standard (e.g. Germany, Japan, Switzerland) is ensured through bilateral amendments to the respective tax treaties. Latvia has opted to apply the minimum standard to comply with the BEPS action plan. In particular, the following main articles of the MIL will apply: – Article 6(1) regarding the changes to the preamble, – Article 7(1) regarding principal purpose test, – specific paragraphs of Article – 16 regarding mutual agreement procedure and – Article 17(3)(b) regarding transfer pricing adjustments.	As of 1 January 2019 the Multilateral Convention to Implement the Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting came into effect in Lithuania.	Cyprus was one of the first 68 countries which formally signed the MLI in June 2017. The MLI was published in the Official Gazette of the Republic on 22 January 2020. The main impact on Cyprus-resident companies will result from the application of Articles 6 and 7 of the MLI, relating to treaty abuse. Article 6 provides for the amendment of the preamble of tax treaties to include the purpose of a covered tax agreement (CTA). Cyprus has clarified that the purpose is to eliminate double taxation without creating opportunities for reduced taxation or non-taxation via tax avoidance or evasion. Together with the list of CTAs, Cyprus also submitted a provisional list of reservations and notifications (MLI positions) in respect of the various provisions of the MLI.	Malta notified all its treaties except for Bulgaria and the US. The MLI has modified 64 of Malta’s DTAs. This number will continue increasing. At the time of depositing the instrument of ratification, among other changes, Malta updated its reservation under Article 28(2)(a) of the MLI (Mandatory Binding Arbitration (MBT)), which limits the scope of cases that are eligible for arbitration.

Estonia	Latvia	Lithuania	Cyprus	Malta
			Cyprus has opted in for the below articles of the MLI: - Article 6 on the inclusion of a preamble in the treaties clarifying their effect; - Article 7 on treaty abuse by choosing the adoption of the PPT; - Article 14 on the minimum standards of dispute resolution; - Article 16 on dispute resolution; and - Article 17 in relation to corresponding adjustments through the MAP procedure.	

7.2 Income tax treaties and effect of the MLI

Treaties between countries included in this brochure that will be amended by the MLI are shown in the overview below. The relevant treaty is included below in **bold** in case both countries have listed the respective treaty as a Covered Tax Agreement. In case both countries have deposited their instrument of ratification, the date of entry into effect of the MLI for withholding taxes is included. In case both countries have opted for provisions of articles 4, 9 and/or 10 of the MLI and the treaty will be amended for these articles, this is also included below. For detailed provisions, including the exact amendments of articles 4, 9 and 10 and the other provisions, reference is made to the OECD MLI Matching Database. This overview provides the status as of 1 June 2021.

	Estonia	Latvia	Lithuania	Cyprus	Malta
1.	**Belgium**	**Belgium**	**Belgium** (1/1/2020 WHT) (1/4/2020 other taxes)	**Belgium**	**Belgium** (1/1/2020)
2.	**Bulgaria**	**Bulgaria**	**Bulgaria**	**Bulgaria**	Bulgaria
3.	**Czech Republic**	**Cyprus**	**Croatia**	**Czech Republic**	**Croatia** (art. 9(4) MLI) (1/1/2022)
4.	**Croatia**	**Czech Republic**	**Cyprus** (1/1/2021 WHT) (1/11/2020 other taxes)	**Estonia**	**Cyprus** (1/1/2021)
5.	**Cyprus**	**Estonia**	**Czech Republic** (1/1/2021 WHT) (1/3/2021 other taxes)	**Hungary**	**Czech Republic** (1/1/2021)
6.	**Hungary**	**Hungary**	**Estonia**	**Latvia**	**Estonia** (art. 9(4) MLI)
7.	**Latvia**	**Lithuania**	**Hungary**	**Lithuania**	**Hungary** (1/1/2022)
8.	**Lithuania**	**Luxembourg**	Latvia (1/1/2021 WHT) (1/8/2020 other taxes)	Luxembourg	**Latvia** (1/1/2021)
9.	**Luxembourg**	**Malta**	**Luxembourg** (1/1/2020 WHT) (1/2/2020 other taxes)	**Malta**	**Lithuania** (1/1/2020)
10.	**Malta** (art.9(4) MLI)	**Netherlands**	**Malta** (1/1/2020 WHT) (1/10/2019 other taxes)	Netherlands	**Luxembourg** (1/1/2020)
11.	**Netherlands**	**Poland**	**Netherlands** (1/1/2020 WHT) (1/1/2020 other taxes)	**Poland**	**Netherlands** (1/1/2020)
12.	**Poland**	**Romania**	**Poland** (1/1/2019 WHT) (1/7/2019 other taxes)	**Romania**	**Poland** (1/1/2020) (art. 9(4) MLI)
13.	**Romania**	**Slovakia**	**Romania**	**Slovakia**	**Romania**
14.	**Slovakia** (art. 9(4) MLI)	**Slovenia**	**Slovakia** (1/1/2019 WHT) (1/7/2019 other taxes)	**Slovenia**	**Slovakia** (1/1/2020, art. 9(4) MLI)
15.	**Slovenia** (art. 9(4) MLI)	Switzerland (bilateral amendments)	**Slovenia** (1/1/2019 WHT) (1/7/2019 other taxes)	Switzerland	**Slovenia** (1/1/2020, art. 9(4) MLI)
16.	Switzerland		**Switzerland** (1/1/2020)		Switzerland

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