Key Corporate Tax Haven Indicators

Haven Indicator 18:

Dividend Withholding Taxes

What is measured?

This indicator measures the extent to which a jurisdiction levies withholding taxes on outbound dividends. As such, it assesses the lowest available unilateral withholding tax rate on outbound dividend payments.

The lowest unilateral withholding tax rate on dividends is then assessed against 35% in line with Haven Indicator 1 on the lowest available corporate income tax rate ("spillover risk reference rate"). A zero withholding tax rate or an absence of withholding taxes on outbound dividends results in a haven score of 100. If the lowest available unilateral withholding rate on dividends is 35%, the haven score is zero. Any rate in between is linearly scaled against 35%. In cases where different tax rates apply, the haven score is calculated by the following steps: 1) determining the jurisdiction's lowest available withholding tax levied; 2) subtracting this tax from the spillover risk reference rate of 35%; 3) scaling this rate in proportion to a haven score between 0 and 100.

The scoring matrix is shown in Table 18.1, and full details of the assessment logic are presented in Table 18.3 below.

Table 18.1. Scoring Matrix Haven Indicator

Regulation	**Haven Score Assessment** [Haven Score: 100 = maximum risk; 0 = minimum risk]
Dividend Withholding Taxes	
The unilateral withholding tax rate on outbound dividend payments imposed by the jurisdiction is scaled between zero and 35% Jurisdictions with zero dividend withholding tax rate have a haven score of 100 while a 35% withholding tax rate is equal to a haven score of zero. The jurisdiction's withholding tax rate is subtracted from the rate of 35% and the haven score is then calculated by placing it on a scale of 0-100.	0-100

All underlying data can be accessed freely in the CTHI database.[1] To see the sources we are using for particular jurisdictions please consult the assessment logic in Table 18.3 and search for the corresponding info ID (ID 508) in the database report of the respective jurisdiction.

The data for this indicator was collected primarily from the International Bureau of Fiscal Documentation (IBFD) database (country analyses and country surveys).[2] In some instances, we have also consulted additional websites and reports of accountancy firms and other local websites.

To assess the lowest dividend withholding taxes available in the jurisdiction, we consider the lowest rate available for any specific sector or type of company. For example, although Liberia levies a 15% withholding tax on outbound dividends, a lower withholding tax rate (5%) is implemented when the resident subsidiary is a mining, petroleum or renewable resource company. We thus consider 5% as the rate for this indicator. We consider the rate is zero when there are exemptions for specific sectors or types of companies. Seychelles, for example, levies 15% dividends withholding tax, but exempts dividend payments by resident Special Licence Companies.[3]

Countries within the European Union that exempt dividend payments to other European Union member states, under the conditions laid down in the Parent-Subsidiary Directive (2011/96/EU),[4] are also considered to have a zero withholding tax rate. Furthermore, treaties between the European Union and Iceland, Liechtenstein, Norway and Switzerland provide benefits similar to those in the Parent-Subsidiary Directive, reducing withholding taxes to 0% on cross border dividend payments between related companies.[5] In cases where these exemptions apply, we consider the lowest available rate as zero.

Why is this important?

The level of withholding tax on dividends influences cross-border tax planning opportunities and plays an important role in countering tax avoidance strategies especially of lower income countries.[6] The level of withholding taxes, along with the level of corporate income taxation and double tax relief agreements, are used as parameters by multinational corporations to determine which countries are used as investment platforms in repatriation strategies, acting as conduit countries.[7] The anti-avoidance role of withholding taxes was recognised by the Organisation for Economic Co-operation and Development (OECD) as early as 1998:

> As with the denial of deduction for certain payments, the imposition of withholding taxes at a substantial rate on certain payments to countries that engage in harmful tax competition, if associated with measures aimed at preventing the use of conduit arrangements, would act as a

> deterrent for countries to engage in harmful tax competition and for taxpayers to use entities located in these countries.[8]

Both the OECD[9] and the European Commission[10] include withholding taxes on dividends in their analysis of countries anti-avoidance rules or aggressive tax planning opportunities. According to a study on structures of aggressive tax planning produced by the European Commission in 2015, having withholding taxes in place may impede aggressive tax planning:

> (…) under certain circumstance, the absence of such withholding taxes may allow for ATP [aggressive tax planning] in the sense that had a withholding tax existed, it could have impeded an ATP structure. ATP structures, particularly those that rely on tax-free repatriation of funds up to the ultimate parent company (i.e. the MNE [multinational enterprise] Group in the model ATP structures) rely on the absence of withholding taxes. The absence of withholding tax could enable unwanted tax practices, and hence constitutes a passive ATP indicator.[11]

Withholding tax on dividends contributes to protecting the tax base particularly of capital-importing countries, that is, countries hosting subsidiaries of multinational corporations. Withholding tax on dividends can help to mitigate the unbalance in taxing rights between source countries (country B in the figure below) and residence countries (country A in the figure below), in which headquarters of multinational companies are based.[12]

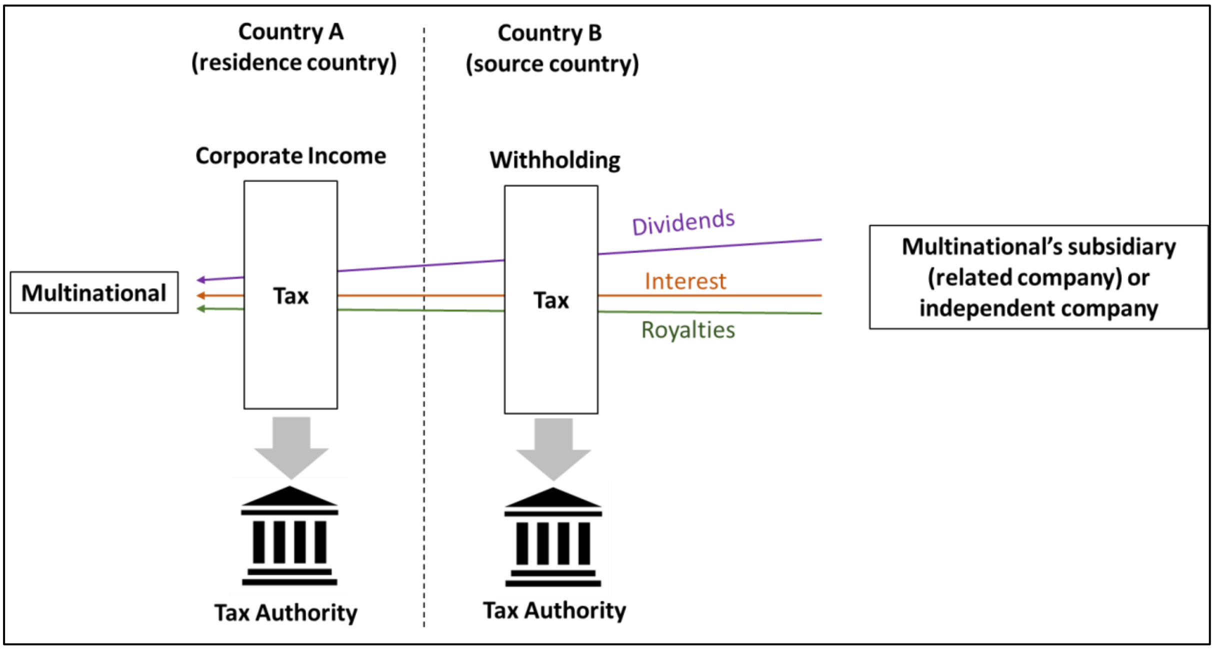


Figure 18.1. Use of withholding tax on multinationals to protect tax base

The use of multiple entities operating in different countries within a single group is a hallmark of globalisation and the modus operandi of any multinational corporate group. Source countries in which the subsidiaries of multinationals groups operate often have their taxable income reduced by deduction of payments, such as interests, royalties and service fees, to other companies of the group, limiting corporate income tax revenues.[13] Such a reduction is especially of concern in lower income countries which are often more dependent on corporate income tax. Deduction limitations or withholding taxes on royalties, interests, services and on dividends have the potential to compensate for these losses, protecting the taxing rights of the source countries.[14,15]

However, in an attempt to attract investments, many jurisdictions reduce tax rates, create exemptions or even eliminate withholding taxes on outbound dividends. By lowering their tax rates, jurisdictions not only erode their own and other country's tax bases through base spillovers, but also incite other countries to respond by further reducing their taxes[16] and engaging in a race to the bottom. According to the International Monetary Fund, average withholding tax rates on dividends, interests and royalties have declined in more than 30% of jurisdictions over the past decades as a result of these ruinous tax wars.[17] The race to the bottom in corporate taxes exacerbates income inequality between countries, since lower income countries are predominantly source countries.

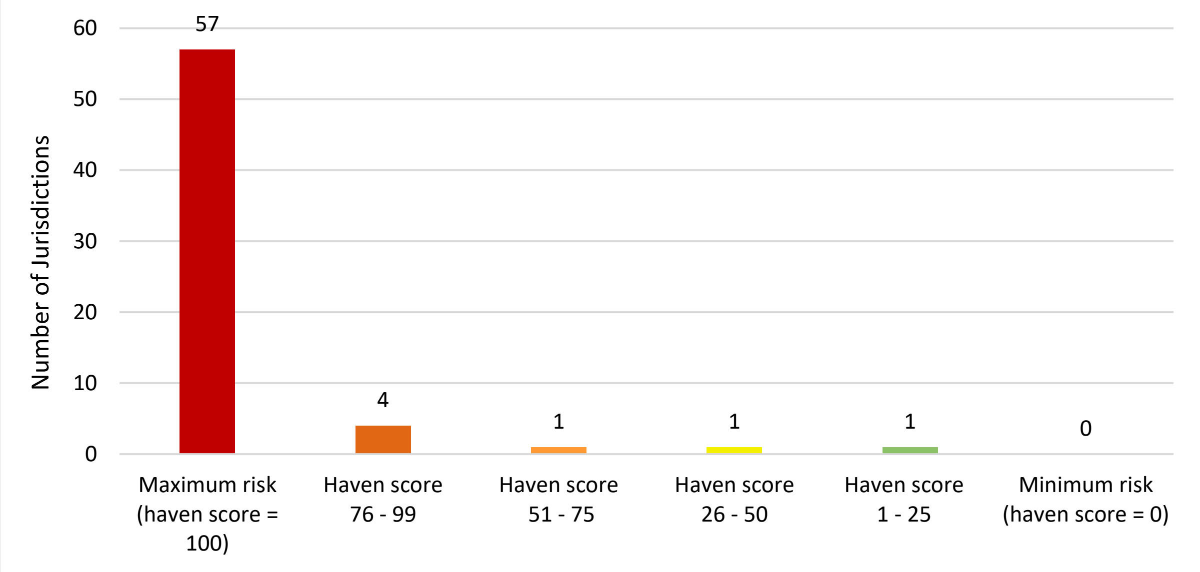
One of the arguments for reducing or eliminating withholding taxes on dividends is the risk of double taxation in the source country and in the resident country. The European Union's Parent-Subsidiary Directive (2011/96/EU)[18] relies on this argument for exempting dividends and other profit distributions paid by subsidiary companies to their parent companies from withholding taxes.[19] However, the meaning of double taxation is an overlap between states' taxing claims which may result in a slightly higher effective tax rate rather than a rate twice as high, as the name misleadingly suggests. Furthermore, such cases of overlaps are rarely documented, while the more severe problem of double non-taxation is empirically observable.[20]

The extensive network of bilateral income tax treaties, which typically eliminate or reduce withholding tax rate to lower levels than the ones prescribed in domestic law, may lead to a situation of double-non taxation where income is not taxed neither at residence or at the source country.[21] [22] These bilateral agreements create the opportunity to divert investment and dividend flows through a third country (conduit country) to take advantage of treaty provisions for reducing or eliminating tax payments, a practice known as treaty shopping.[23] The aggressiveness of the jurisdictions' bilateral treaties network is assessed in Haven Indicator 20.

Unilateral withholding taxes are an important tool for tackling inequality in taxing rights, assuring revenues for capital importing countries and limiting tax avoidance strategies.

Results Overview

Graph 18.1. Dividends Withholding Taxes Overview



Results Detail

Table 18.2. Withholding Taxes on Dividends – Haven Indicator Scores

Country Name	Score	ISO		Country Name	Score	ISO
Andorra	100	AD		Kenya	100	KE
Anguilla	100	AI		Latvia	100	LV
Aruba	86	AW		Lebanon	100	LB
Austria	100	AT		Liberia	86	LR
Bahamas	100	BS		Liechtenstein	100	LI
Belgium	100	BE		Lithuania	100	LT
Bermuda	100	BM		Luxembourg	100	LU
Botswana	100	BW		Macao	100	MO
British Virgin Islands	100	VG		Malta	100	MT
Bulgaria	100	BG		Mauritius	100	MU
Cayman Islands	100	KY		Monaco	100	MC
China	100	CN		Montserrat	57	MS
Croatia	100	HR		Netherlands	100	NL
Curacao	100	CW		Panama	86	PA
Cyprus	100	CY		Poland	100	PL
Czech Republic	100	CZ		Portugal (Madeira)	100	PT
Denmark	100	DK		Romania	100	RO
Estonia	100	EE		San Marino	100	SM
Finland	100	FI		Seychelles	100	SC
France	100	FR		Singapore	100	SG
Gambia	100	GM		Slovakia	100	SK
Germany	100	DE		Slovenia	100	SI
Ghana	100	GH		South Africa	100	ZA

Country Name	Score	ISO		Country Name	Score	ISO
Gibraltar	100	GI		Spain	100	ES
Greece	100	GR		Sweden	100	SE
Guernsey	100	GG		Switzerland	100	CH
Hong Kong	100	HK		Taiwan	40	TW
Hungary	100	HU		Tanzania	86	TZ
Ireland	100	IE		Turks and Caicos Islands	100	TC
Isle of Man	100	IM		United Arab Emirates (Dubai)	100	AE
Italy	100	IT		United Kingdom	100	GB
Jersey	100	JE		USA	14	US

Maximum Risk (Haven Score 100)	Haven Score 76 - 99	Haven Score 51 - 75	Haven Score 26 - 50	Haven Score 1 - 25	Minimum Risk (Haven Score 0)

Table 18.3: Assessment Logic

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation Haven Score
508	What is the (lowest) applicable unilateral cross-border withholding tax rate for outgoing dividend payments to a related party?	Withholding tax rate (between 0 and 35)	Haven score = ((35 – answer)/35)*100

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[1] http://www.corporatetaxhavenindex.org/database/menu.xml

[2] IBFD, *Tax Research Platform: Country Surveys, Country Analyses, Country Key Features*, Accessed 2018-2019, 2018 <https://research.ibfd.org/> [accessed 9 May 2019].

[3] M. Jivan & L.G. Ogazón Juárez, Seychelles - Corporate Taxation, Country Surveys IBFD, 2018, https://research.ibfd.org/#/doc?url=/linkresolver/static/gtha_sc; [accessed 27 May 2019].

[4] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0096&from=EN; [accessed 2 May 2019].

[5] IBFD, *Tax Research Platform: Country Surveys, Country Analyses, Country Key Features*. See also https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-switzerlandhighlights-2019.pdf; [accessed 2 May 2019].

[6] Maarten van 't Riet and Arjan Lejour, 'Ranking the Stars: Network Analysis of Bilateral Tax Treaties' (2014) <https://www.cpb.nl/sites/default/files/publicaties/download/cpb-discussion-paper-290-ranking-stars_0.pdf> [accessed 1 May 2019].

[7] Simon Loretz, Richard Sellner and Bianca Brandl, 'Aggressive Tax Planning Indicators' (2017), 33.

[8] OECD, *Harmful Tax Competition: An Emerging Global Issue* (1998) <https://www.oecd-ilibrary.org/taxation/harmful-tax-competition_9789264162945-en> [accessed 9 May 2019].

[9] Øystein Bieltvedt Skeie, Åsa Johansson and Stéphane Sorbe, 'Anti-Avoidance Rules against International Tax Planning: A Classification' (2016) <https://www.oecd.org/eco/Anti-avoidance-rules-against-international-tax-planning-A-classification.pdf> [accessed 29 April 2019].

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[11] 'Study on Structures of Aggressive Tax Planning and Indicators', 58.

[12] Michael Durst, *Taxing Multinational Business in Lower Income Countries: Economics, Politics and Social Responsibility* (2019) <https://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/14336/Durst_Book_Final.pdf?sequence=1&isAllowed=y> [accessed 2 May 2019].

[13] Michael Durst, *Taxing Multinational Business in Lower Income Countries: Economics, Politics and Social Responsibility*, 31–32.

[14] Michael Durst, *Taxing Multinational Business in Lower Income Countries: Economics, Politics and Social Responsibility*, 31–32.

[15] While this indicator focuses on withholding taxes on dividends, the potential of revenue loss due to the deduction of expenses with interests, royalties and services are addressed by Haven Indicators 15, Haven Indicator 16 and Haven Indicator 17, respectively.

[16] This process of race to the bottom can also apply to corporate income tax rates, which are assessed in Haven Indicator 1.

[17] International Monetary Fund (IMF), 'Spillovers in International Corporate Taxation', 2014, 68 <https://www.imf.org/external/np/pp/eng/2014/050914.pdf> [accessed 2 May 2019].

[18] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0096&from=EN; [accessed 2 May 2019].

[19] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0096&from=EN ; [accessed 2 May 2019].

[20] Sol Picciotto, *Unitary Taxation: Our Responses to the Critics*, 2013, 3 <www.taxjustice.net/cms/upload/pdf/Unitary_Taxation_Responses-1.pdf>.

[21] Sol Picciotto, *Unitary Taxation: Our Responses to the Critics*, 3.

[22] Michael Durst, *Taxing Multinational Business in Lower Income Countries: Economics, Politics and Social Responsibility*.

[23] For further details on the phenomenon of treaty shopping and the mechanism used to avoid taxation through conduit countries, see here: Michael Durst, *Taxing Multinational Business in Lower Income Cuontries: Economics, Politics and Social Responsibility* (2019) <https://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/14336/Durst_Book_Final.pdf?sequence=1&isAllowed=y> [accessed 2 May 2019]. And: Maarten van 't Riet and Arjan Lejour, 'Ranking the Stars: Network Analysis of Bilateral Tax Treaties'.