

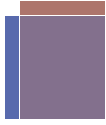
Belgium

Rank: #16

Belgium is responsible for 2.2% of the world's corporate tax abuse risks.

CTHI Value: 973

Haven Score: 72.8



How much scope for corporate tax abuse the jurisdictions's tax and financial systems allow. 0 means no scope, 100 means unrestrained scope.

Global Scale Weight: 1.6%



How much of the financial activity conducted by multinational corporations around the world is hosted by the jurisdiction.

The jurisdiction's CTHI value (Corporate Tax Haven Index value) is a measure of how intensely the jurisdiction enables multinational corporations to abuse corporate tax. The jurisdiction is ranked on the index by its CTHI value.

A jurisdiction's CTHI Value is calculated by first grading its tax and financial systems with a Haven Score out of 100 where a zero means the jurisdiction's laws allow no scope for corporate tax abuse and a 100 means they allow unrestrained scope. The jurisdiction's Haven Score is then combined with its Global Scale Weight, ie the volume of financial activity conducted in the country by multinational corporations, to calculate how much corporate financial activity the jurisdiction puts at risk of corporate tax abuse.

A higher CTHI value does not mean a jurisdiction has more aggressive tax laws, but rather that the jurisdiction's laws and its position in the global economy combine to create a greater risk of corporate tax abuse by multinational corporations.

Haven Score breakdown



72.8

LOWEST AVAILABLE CORPORATE INCOME TAX

Haven Indicator 1: LACIT ▲



92

This indicator identifies the lowest available corporate income tax rate (LACIT) for any large for-profit company that is tax resident in a country. It takes the statutory corporate income tax rate only as a starting point to analyse legal gaps and loopholes that result in lower accessible rates. The scoring of Haven Indicator 1 is computed by scaling that LACIT rate against the spillover risk reference rate of 35% (the highest available corporate income tax rate in a democracy).

ID 505 — Statutory corporate income tax rate ▲

Question: Statutory-CIT-Rate: What is the statutory CIT rate reported by the OECD (or alternatively by IBFD or KPMG)?

Answer: 25 %

Notes:

- As of January 2020, the standard corporate income tax rate was reduced from 29% to 25% and the austerity surcharge was abolished (IBFD 2020b). The rate of 25% is confirmed by the OECD (OECD Stats 2020a). Prior to 2020, the standard rate was 29%, which was combined with an austerity surcharge of 2%, resulting in a rate of 29.58% (IBFD 2020b).
- While a reduced rate (20.4%) is available for small- and medium-sized enterprises for the first bracket of EUR100,000 (IBFD 2020b), for this indicator we consider the highest amount of income and the largest businesses.

Sources:

- [IBFD 2020b](#)
- [OECD Stats 2020a](#)

ID 506 — Corporate income tax rate: Correction for size of company ▲

Question: CIT-Rate-Correction-Size: What is the deviating CIT rate, if any, applicable to the largest companies in the jurisdiction?

Answer: Not applicable

Notes:

- While a reduced rate (20.4%) is available for small- and medium-sized enterprises for the first bracket of EUR100,000 (IBFD 2020b), for this indicator we consider the highest amount of income and the largest businesses.

Sources:

- [IBFD 2020b](#)

ID 507 — Corporate income tax rate: Correction for sectoral exemptions ▲

Question: CIT-Rate-Correction-Sector: What is the lowest deviating CIT rate, if any, applicable to companies in jurisdictions exempting a broad range of sectors (at least four full and/or eight partial exemptions)?

Answer: Not applicable

ID 541 — Corporate income tax rate: Correction for subnational regions ▲

Question: CIT-Rate-Correction-Regions: What is the lowest deviating CIT rate, if any, applicable in the political subdivision/subnational region with the lowest CIT rate?

Answer: Not applicable

ID 542 — Corporate income tax rate: Adjustment for retention or distribution ▲

Question: CIT-Rate-Adjustment-Retention: What is the lowest deviating CIT rate, if any, applicable to distributed or retained profits?

Answer: Not applicable

ID 543 — Corporate income tax rate: Adjustment for specific type of company ▲

Question: CIT-Rate-Adjustment-Type: What is the lowest deviating CIT rate, if any, applicable to specific types of companies?

Answer: Not applicable

ID 544 — Corporate income tax rate: Adjustment for territorial tax base ▲

Question: CIT-Rate-Adjustment-Territorial: What is the lowest deviating CIT rate, if any, applicable to active business income from foreign sources?

Answer: Not applicable

ID 545 — Corporate Income Tax Rate: Adjustment for tax rulings ▲

Question: CIT-Rate-Adjustment-Rulings: What is the lowest deviating CIT rate, if any, derived from documented cross-border unilateral tax rulings issued by the authorities in the jurisdiction?

Answer: 2.958 %

Notes:

- The rate has been adjusted based on findings from the state aid investigations by the European Commission. The Belgian tax scheme allowed selected multinational corporations to discount large parts of their profits when paying corporate tax in Belgium. It has existed since 2005 and came into the spotlight in 2015 when the European Commission opened a state aid investigation. In January 2016, the European Commission decided that the selective tax advantages Belgium has granted to at least 35 multinationals under its 'excess profit' tax scheme were illegal under state aid rules (europa.eu). According to the Commission "In practice, it usually meant that the companies concerned did not pay taxes on more than 50% of their actual profits, and in some cases up to 90%" (11 January 2016 EC Press Release). Thus, the effective tax rate for these companies ranged from 14.75% down to 2.958% (50% of 29.58 and 10% of 9.58%, respectively). Due to the weakest link principle, the tax rate which applies for this indicator is the lowest one, i.e., 2.958%.
- On 14 February 2019, the General Court of the EU ruled that the Belgian 'excess profit scheme' was not state aid, annulling the Commission's 2016 decision. The court found that the excess profits scheme did not meet the legal definition of systematic (and therefore could not qualify as a scheme) because the Ruling Commission's role in administering the scheme was more legally significant (curia.europa.eu). Nonetheless, the fact that the scheme did not violate state aid rules does not change the fact that those low tax rates were allowed by unilateral cross border tax rulings and therefore, the corporate income tax rate of 2.958% still applies for this indicator.
- On 15 October 2019, the European Commission filed an appeal with the Court of Justice of the European Union concerning the decision to annul the state aid ruling on 14 April 2019. This appeal is still in process and bears monitoring but there is no change in the corporate income tax rate offered by Belgium (curia.europa.eu).

Sources:

- <http://curia.europa.eu/juris/fiche.jsf?id=C%3B337%3B19%3BPV%3B1%3BP%3B1%3BC2019%2F0337%2FP&oq=&for=&mat=or&lgrc=en&jge=&td=%3BALL&jur=C%2CT%2CF%337%252F19&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252>
- http://europa.eu/rapid/press-release_IP-16-42_en.htm
- <https://www.nytimes.com/2016/01/12/business/international/belgium-eu-tax-break.html>
- https://www.nytimes.com/2015/10/20/business/international/anheuser-busch-a-b-inbev-sabmiller.html?_r=0

ID 587 — Corporate tax residency scope ▲

Question: Corporate tax residency scope: Do the domestic rules for corporate tax residency include as tax resident at least all locally incorporated companies?

Answer: INC & MNG: Yes, all locally incorporated companies are considered tax residents, and in addition some foreign-incorporated companies are considered tax resident (e.g. those with effective management and control in the jurisdiction).

Notes:

- In Belgium, a corporation is considered tax resident if its main establishment, registered office /legal seat, or place of effective management is in Belgium (Deloitte 2020a; IBFD 2020b: 1.1.5.). Moreover, according to PWC (2020a), "Although in company law the 'registered seat' theory has become the new general rule since the recent reform, from a tax point of view, the 'real seat' theory remains applicable. Therefore, new definitions of 'companies', 'resident companies' (combined with a rebuttable presumption to avoid situations of double non-residence), and 'foreign companies' have been introduced in the Belgian Income Tax Code". According to the Global Forum for Tax Transparency and Exchange of Information, "All companies with their registered office (incorporated) in Belgium, their principal establishment in Belgium, or whose seat of management or administration is located in Belgium are considered to be resident in Belgium and subject to corporate income tax" (GF 2018: 22). This last source provides strong indication that locally incorporated companies have their legal seat in Belgium, and are thus considered tax residents. Because effective management is an additional criterion that allows for tax residency determination of foreign-incorporated companies, we consider that the tax residency scope goes beyond the inclusion of all locally incorporated entities.

Sources:

- IBFD 2020b Deloitte 2020a; PWC 2020a; GF 2018 ☑
- <https://www.notaire.be/societes/identification-de-la-societe/siege-de-la-societe>
- http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1993082749&table_name=loi
- https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2019032309&table_name=loi
- <https://www.oecd.org/tax/transparency/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-belgium-2018-second-round-9789264290839-en.htm>

LOOPHOLES AND GAPS

Haven Indicator 2: Foreign Investment Income ▲

50

This indicator assesses whether a country includes worldwide capital income in its corporate income tax base and if its domestic law grants unilateral tax credits for foreign tax paid on certain foreign capital income.

ID 555 — Double taxation relief, dividends, related parties ▲

Question: *Legal Person, Resident, Related Party: Dividends

Answer: Exemption.

Notes:

- Under participation exemption where conditions are met, 100% of the dividends are exempt (IBFD 2020b; 7.2.1.3.; 6.1.3.).

Sources:

- [IBFD 2020b](#)

ID 554 — Double taxation relief, royalties ▲

Question: Legal Person, Resident: Royalties

Answer: Credit.

Notes:

- If foreign income was subject to income tax, then a tax credit is granted for foreign (withholding) taxes paid (IBFD 2020b : 7.2.6.3.). Although this jurisdiction has a patent box (see ID 515), we disregard such regime from this indicator because it is compliant with OECD nexus constraints (for more details, please refer to Haven Indicator 7 methodology).

Sources:

- [IBFD 2020b](#)

ID 553 — Double taxation relief, interest ▲

Question: *Legal Person, Resident: Interest

Answer: Credit.

Notes:

- Regarding Interests, in Belgium if foreign income was subject to income tax, then a tax credit is granted for foreign (withholding) taxes paid (IBFD 2020b: 7.2.6.3.).

Sources:

- [IBFD 2020b](#)

ID 552 — Double taxation relief, dividends, independent parties ▲

Question: *Legal Person, Resident, Independent Party: Dividends

Answer: None. There is no unilateral relief from double taxation.

Notes:

- Belgium does not grant unilateral relief of taxes paid for foreign portfolio dividend income, except for dividends received from investment companies, then credit (IBFD 2020b : 7.2.1.3.).

Sources:

- [IBFD 2020b](#)

Haven Indicator 3: Loss Utilisation ▲

38

This indicator measures whether a jurisdiction provides loss carry backward and/or unrestricted loss carry forward for ordinary and trading losses. Capital losses fall outside the scope of this indicator.

ID 509 — Loss carry backward ▲

Question: Loss Carry Backward: Does the jurisdiction allow loss carry backward?

Answer: No

Notes:

- In Belgium, loss carry-backward was allowed in the COVID 19 context, for losses incurred in tax year 2020 against profits derived between 13 March 2019 and 13 July 2020 (IBFD 2020b: 1.8.1; IBFDg). Given that as of 2021, this measure is not available anymore, we do not consider this measure for this index.

Sources:

- [IBFD 2020b](#)
- [IBFDg](#)

ID 510 — Loss carry forward ▲

Question: Loss Carry Forward: Does the jurisdiction restrict loss carry forward independent of change of ownership?

Answer: Yes, loss carry forward is limited only by annual ceiling (minimum tax).

Notes:

- In Belgium, losses may be carried forward indefinitely. However, as a result of an amendment on 22 December 2017 (www.loyensloeff.be, p. 6), there is an annual ceiling of EUR 1 million. Besides, a maximum 70 percent of taxable earnings exceeding EUR 1 million can be offset against incurred losses. (Deloitte 2020a; IBFD 2020b: 1.8.1.).

Sources:

- [IBFD 2020b](#)
- <https://www.loyensloeff.be/media/69026/the-belgian-corporate-income-tax-reform-2018-2020-loyens-loeff.pdf>
- [Deloitte 2020a](#)
- <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-belgiumhighlights-2020.pdf>

Haven Indicator 4: Capital Gains Taxation ▲

100

This indicator measures the extent to which a jurisdiction taxes corporate capital gains arising from the disposal of domestic and/or foreign securities (i.e. shares and bonds). As such, it assesses the lowest available tax levied on corporate capital gains, applicable for large for-profit corporations which are tax resident in the jurisdiction, irrespective of whether the capital gains are taxed as part of corporate income tax or as part of another type of tax, such as wealth tax or an independent capital gains tax.

ID 513 — Domestic securities capital gains taxation ▲

Question: Domestic Securities Capital Gains Taxation: What is the lowest available capital gains tax rate arising from disposal of domestic securities applicable for large "for profit" companies which are tax resident in the jurisdiction?

Answer: 0 %

Notes:

- Capital gains derived from the disposal of shares are included in the business income of corporations. However, as of accounting year 2018, capital gains from the disposal of shares (excluding shares in an investment fund) are exempt from taxation if the dividends relating to such shares meet the conditions of the participation exemption once the gains are realised (IBFD 2020b : 1.7.2. and 6.1.3. ; Deloitte 2020a: 4).

Sources:

- IBFD 2020b; Deloitte 2020a [↗](#)
- <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-belgiumhighlights-2020.pdf>

ID 514 — Foreign securities capital gains taxation [▲](#)

Question: Foreign Securities Capital Gains Taxation: What is the lowest available capital gains tax rate arising from disposal of foreign securities applicable for large "for profit" companies which are tax resident in the jurisdiction?

Answer: 0 %

Notes:

- While capital gains derived from foreign sources are subject to corporate income tax, the participation exemption applies to gains on shares in non-resident companies (IBFD 20120b: 7.2.1.5; Deloitte 2020a: 4).

Sources:

- IBFD 2020b; Deloitte 2020a [↗](#)
- <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-belgiumhighlights-2020.pdf>

Haven Indicator 5: Broad Exemptions [▲](#)

69

This indicator measures the availability of broad exemptions from corporate income tax (CIT). It covers exemptions applicable to companies engaged in specific activities or sectors.

ID 524 — Real estate investment sector tax exemption (passive) [▲](#)

Question: Real Estate Investment (passive): Are there any (partial) tax exemptions applicable to collective investment companies investing in real estate?

Answer: Full: Yes, there are full tax exemptions.

Notes:

- "Income from foreign real estate or branches located in countries with which Belgium has concluded a tax treaty is exempt (except for three countries, where, under the relevant treaty, only a proportional reduction of Belgian tax is granted)" (Deloitte 2020a). Pursuant to the Law of 12 May 2014 relating to Regulated Real Estate Companies, a special status for such companies is introduced for entities engaging in qualifying activities. Furthermore, under the Programme Law of 3 August 2016, real estate investment funds are made available as a vehicle for institutional investors. For these companies, income from dividends, interest, rental income and capital gains derived from real estate are exempt from tax (IBFD 2020b : 11.6.3.2.).

Sources:

- <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-belgiumhighlights-2020.pdf>
- Deloitte 2020a [↗](#)
- IBFD 2020b [↗](#)
- https://www.investeurope.eu/media/1156/ie_tax-benchmark-study-2018.pdf
- IE 2018 [↗](#)

ID 525 — Financial investment sector tax exemption (passive) [▲](#)

Question: Other Investment (passive): Are there any (partial) tax exemptions applicable to collective investment companies investing in assets other than real estate?

Answer: Partial: Yes, there are partial tax exemptions.

Notes:

- Portfolio investment companies (SICAV/BEVEK, SICAF/BEVAK and SIC/VBS) are taxed according to the standard CIT rates. However, the tax liability of these companies is not assessed on the profits, but on the non-deductible expenses and abnormal and gratuitous advantages (IBFD 2020b; 11.6.1.2.). The alternative tax regime "generally does not take into account the investment's income or the capital gains for determining the taxable basis" (IE 2018) Thus, we consider investment companies to be partially exempt from CIT.

Sources:

- IBFD 2020b [↗](#)
- https://www.investeurope.eu/media/722513/ie_tax-benchmark-study-2018.pdf
- IE 2018 [↗](#)

ID 526 — Extractive sector tax exemption [▲](#)

Question: Extractives (active): Are there any (partial) tax exemptions applicable to companies active in the extractives sector (oil, gas, mining)?

Answer: Partial: Yes, there are partial tax exemptions.

Notes:

- Belgium's tonnage regime includes companies operating sea vessels for the transport of goods on routes from and to installations at sea used for the exploration or exploitation of natural resources (IBFD 2020d : 1.7.5.) A November 2017 decision by the European Commission assessing State Aid characteristics of Belgian tonnage regime (applicable until 2022), confirms that such regime includes both servicing of offshore exploration and extraction structures, and the transportation of natural resources extracted at sea (EC 2017 : 4). Thus, we consider that over and above transportation activities, the Belgian tonnage tax regime provides a partial exemption in the "Extractives" sector.

Sources:

- IBFD 2020b [↗](#)

- IBFD 2020d : 1.7.5.; EC 2017: 4. [↗](#)
- https://ec.europa.eu/competition/state_aid/cases/262095/262095_1947296_88_2.pdf

ID 527 — Agriculture and farming sector tax exemption ▲

Question: Agriculture and farming (active): Are there any (partial) tax exemptions applicable to companies active in the agricultural and farming sector?

Answer: None: No, there are no specific exemptions.

Sources:

- IBFD 2020b [↗](#)

ID 528 — Manufacturing sector tax exemption ▲

Question: Manufacturing (active): Are there any (partial) tax exemptions applicable to companies active in the manufacturing sector?

Answer: None: No, there are no specific exemptions.

Sources:

- IBFD 2020b [↗](#)

ID 529 — Construction sector tax exemption ▲

Question: Construction (active): Are there any (partial) tax exemptions applicable to companies active in the construction sector?

Answer: None: No, there are no specific exemptions.

Sources:

- IBFD 2020b [↗](#)

ID 530 — Infrastructure sector tax exemption ▲

Question: Infrastructures (active): Are there any (partial) tax exemptions applicable to companies active in the infrastructures sector?

Answer: None: No, there are no specific exemptions.

Sources:

- IBFD 2020b [↗](#)

ID 531 — Transportation and storage sector tax exemption ▲

Question: Transportation and storage (active): Are there any (partial) tax exemptions applicable to companies active in the transportation and storage sector?

Answer: Partial: Yes, there are partial tax exemptions.

Notes:

- Belgium's tonnage regime includes companies operating sea vessels for the transport of goods on routes from port to installations at sea used for the exploration or exploitation of natural resources (IBFD 2020d : 1.7.5.) A November 2017 decision by the European Commission assessing State Aid characteristics of Belgian tonnage regime (applicable until 2022), confirms that such regime includes both servicing of offshore exploration and extraction structures, and the transportation of natural resources extracted at sea (EC 2017 : 4). Thus, we consider that the Belgian tonnage tax regime provides a partial exemption to the transportation activities sector (see ID 526).

Sources:

- IBFD 2020b [↗](#)
- IBFD 2020d : 1.7.5.; EC 2017: 4. [↗](#)
- https://ec.europa.eu/competition/state_aid/cases/262095/262095_1947296_88_2.pdf

ID 532 — Distribution sector tax exemption ▲

Question: Distribution (active): Are there any (partial) tax exemptions applicable to companies active in the distribution sector?

Answer: Partial: Yes, there are partial tax exemptions.

Notes:

- A special tax regime is available for diamond trade. Under this regime, the tax base is determined as a percentage of the company's turnover (0.55% in 2016). This percentage is increased with "the positive difference between the reference salary for a director and the highest amount of director's fees paid during the taxable period" (IBFD 2020b, 12.1.). Because diamonds are not extracted in Belgium, and the diamond business in Belgium is mainly trade distribution/wholesale as opposed to manufacturing (cutting/polishing), we consider that Belgium offers a partial exemption within the distribution sector (wholesale, import/export). Indeed, a 2013 FATF report on ML/TF through trade in diamonds indicates that diamonds manufacturing has strongly declined in Belgium, while the jurisdiction is one of the largest diamond trading hubs. (FATF/EG 2013)

Sources:

- IBFD 2020b [↗](#)
- <http://www.fatf-gafi.org/media/fatf/documents/reports/ML-TF-through-trade-in-diamonds.pdf>
- FATF/EG 2013 [↗](#)

ID 533 — Accommodation, food and recreation sector tax exemption ▲

Question: Accommodation, food and recreation (active): Are there any (partial) tax exemptions applicable to companies active in the accommodation, food and recreation sector?

Answer: None: No, there are no specific exemptions.

Sources:

- IBFD 2020b [↗](#)

ID 534 — Information and telecom sector tax exemption ▲

Question: Information and telecom (active): Are there any (partial) tax exemptions applicable to companies active in the information and telecom sector?

Answer: None: No, there are no specific exemptions.

Sources:

- [IBFD 2020b](#)

ID 535 — IT services sector tax exemption ▲

Question: IT services (active): Are there any (partial) tax exemptions applicable to companies active in the IT services sector?

Answer: None: No, there are no specific exemptions.

Sources:

- [IBFD 2020b](#)

ID 536 — Banking and insurance sector tax exemption ▲

Question: Banking and insurance (active): Are there any (partial) tax exemptions applicable to companies active in the banking and insurance sector?

Answer: Partial: Yes, there are partial tax exemptions.

Notes:

- Credit institutions are taxed pursuant to an "annual bank tax" regime, whereby the taxable amount is based on the average debts held towards customers during the accounting year (IBFD 2020b; 12.4.). As of 2020, the applicable rate is 0.13231% on that amount (Ibid.). Although the tax is not assessed on income, we consider that Belgium offers a partial exemption with regards to the "banking & insurance" sector.

Sources:

- [IBFD 2020b](#)

ID 537 — Professional and technical services sector tax exemption ▲

Question: Professional and technical services (active): Are there any (partial) tax exemptions applicable to companies active in the professional and technical services sector?

Answer: None: No, there are no specific exemptions.

Sources:

- [IBFD 2020b](#)

ID 538 — Business services sector tax exemption ▲

Question: Business services (active): Are there any (partial) tax exemptions applicable to companies active in the business services sector?

Answer: Partial: Yes, there are partial tax exemptions.

Notes:

- Belgium's tonnage regime includes companies exclusively managing seagoing vessels for the account of a third party, on the condition that at least 75% of such vessels are registered in the Belgian Register of Shipping, and that most of the following activities are (directly or indirectly) carried out in Belgium: ship agreements, (re)supply ships, maintenance, insurance contracts, book-keeping, administrative formalities, and appointment of ship Masters (Royal Belgian Shipowners' Association, website accessed May 2020). Thus, over and above transport activities, the Belgian tonnage tax regime includes "business services" (management, human resources, accounting), which we consider partially exempt.

Sources:

- [IBFD 2020b](#)
- <https://kbrv.be/fiscality/>
- https://ec.europa.eu/competition/state_aid/cases/262095/262095_1947296_88_2.pdf

Haven Indicator 6: Economic Zones and Tax Holidays ▲

0

This indicator measures whether and to what extent time-bound or geographically confined tax incentives are available in a country. It measures if these incentives offer partial or full exemptions from corporate income tax (CIT) and/or capital gains tax (CGT). This includes temporary tax holidays and special tax incentives (temporary or permanent) given to companies located in designated economic zones.

ID 540 — Tax holidays, non-economic zones, full exemption ▲

Question: NonEZ-Temporary-Full: How many temporary (tax holidays) and full tax exemptions are offered to companies established anywhere in the jurisdiction (except in economic zones or non-autonomous regions)?

Answer: 0

Notes:

- While there are several tax incentives available to corporations in Belgium, there is no evidence of profit/gains-based incentives available on a temporary basis or of incentives only available in specific economic zones. Regions such as Wallonie or Flandre offer subsidies and specific advantages. However, none of the incentives directly relate to reductions in the CIT or CGT rates (Official investment websites accessed 12.08.2020; PWC 2019a). Moreover, official investment promotion websites at the national and regional level consistently point out the wide availability of tax rulings to assess corporations' tax obligations.

Sources:

- [IBFD 2020b](#)
- <http://www.investinbrussels.com/en/index.cfm/setting-up-for-business/tax-incentives/>
- https://business.belgium.be/fr/investir_en_belgique/avantages_fiscaux
- <http://www.investinwallonia.be/why-wallonia/investment-incentives/tax-incentives>
- [PwC 2019a](#)

ID 539 — Tax holidays, non-economic zones, partial exemption ▲

Question: NonEZ-Temporary-Partial: How many temporary (tax holidays) and partial tax exemptions are offered to companies established anywhere in the jurisdiction (except in economic zones or non-autonomous regions)?

Answer: 0

Notes:

- See note above [ID540].

Sources:

- [IBFD 2020b](#)

ID 504 — Permanent, economic zones, full exemption ▲

Question: EZ-Permanent-Full: How many permanent and full tax exemptions are offered by the jurisdiction to companies established in economic zones or non-autonomous regions?

Answer: 0

Notes:

- See note above [ID540].

Sources:

- [IBFD 2020b](#)

ID 503 — Permanent, economic zones, partial exemption ▲

Question: EZ-Permanent-Partial: How many permanent and partial tax exemptions are offered by the jurisdiction to companies established in economic zones or non-autonomous regions?

Answer: 0

Notes:

- See note above [ID540].

Sources:

- [IBFD 2020b](#)

ID 502 — Tax holidays, economic zones, full exemption ▲

Question: EZ-Temporary-Full: How many temporary (tax holidays) and full tax exemptions are offered by the jurisdiction to companies established in economic zones or non-autonomous regions?

Answer: 0

Notes:

- See note above [ID540].

Sources:

- [IBFD 2020b](#)

ID 501 — Tax holidays, economic zones, partial exemption ▲

Question: EZ-Temporary-Partial: How many temporary (tax holidays) and partial tax exemptions are offered by the jurisdiction to companies established in economic zones or non-autonomous regions?

Answer: 0

Notes:

- See note above [ID540].

Sources:

- [IBFD 2020b](#)

Haven Indicator 7: Patent Boxes ▲

This indicator measures whether a jurisdiction offers preferential tax treatment for income related to intellectual property rights (e.g. patent boxes) and whether the Organisation for Economic Co-operation and Development (OECD) nexus approach constraints are applicable to the patent box.

ID 515 — Patent box ▲

Question: Patent Box: Does the jurisdiction offer preferential tax treatment for income related to intellectual property?

Answer: Yes, an exemption or a lower CIT for IP-income is available with OECD nexus constraints.

Notes:

- Belgium has replaced its "patent income deduction regime" with the new "innovation deduction regime" with effect from 1 July 2016 (IBFD 2020b: 1.9.7.). The new regime is compliant with OECD nexus constraints (EU Code of Conduct 2020; OECD HTP 2020). While a grandfathering provision enables companies that entered the regime earlier to continue benefitting from the old harmful patent box regime until 30 June 2021 (IBFD 2020b; 1.9.7., 1.9.8.), given that the grandfathering provision ends within the year of the index publication, we consider that the patent box of Belgium complies with the nexus constraints.

Sources:

- [IBFD 2020b; 1.9.7.; 1.9.8.](#)
- [EU Code of Conduct 2020](#)
- [Deloitte 2020a](#)
- <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-belgiumhighlights-2020.pdf>
- [OECD HTP 2020](#)

Haven Indicator 8: Fictional Interest Deduction ▲

This indicator measures whether a jurisdiction offers fictional interest deduction to lower the corporate income tax. Because the deduction is given even though no actual interest was paid, the interest deduction is referred to as "fictional" or "nominal". Fictional interest deduction allows a company with a capital structure with high equity (i.e. mostly financed by issuing shares instead of borrowing money) to deduct a certain sum of fictitious financial costs from its tax base.

ID 516 — Fictional interest deduction ▲

Question: Fictional Interest Deduction: Does the jurisdiction offer a scheme that allows deducting from the corporate income tax base a notional return on equity?

Answer: Yes

Notes:

- The notional interest deduction is granted to resident companies non-resident companies who are subject to the corporate income tax on non-residents (e.g. regarding their Belgian permanent establishment or immovable property located in Belgium). As of 2018, the deduction is based on the incremental accounting equity of a company (over a period of 5 years) (IBFD 2020b : 1.9.6).

Sources:

- IBFD 2020b [↗](#)
- IMF 2018 [↗](#)
- EU Code of Conduct 2019 [↗](#)

TRANSPARENCY

Haven Indicator 9: Public Company Accounts 0

This indicator considers whether a country requires all available types of company with limited liability (except for small companies) to keep accounts according to the international standard and to file their accounts with a government authority and to make them accessible online for free or at a low cost.

ID 188 — Compliance with international standard on keeping accounting records ▲

Question: *Is there an obligation to keep accounting data?

Answer: Yes

Notes:

- In Belgium, "[...] all relevant entities and arrangements are required to maintain reliable accounting records" and "[...] the accounting records of Belgian businesses must be supported by underlying documentation, such as invoices, contracts, delivery notes, etc., which are required to be kept for a minimum of seven years." (GF 2018: 50, 53).

Sources:

- https://www.nbb.be/doc/ba/filing/foreigncompany/t_foreign_enterpr_e_v201207.pdf
- GF 2013: 45-47; GF 2018: 50-53 [↗](#)
- GF 2011a: 36-38; GF 2011b: 15 [↗](#)
- https://www.nordeatrade.com/dk/explore-new-market/belgium/accounting?vider_sticky=oui
- <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-belgiumhighlights-2020.pdf>

ID 189 — Submission of annual accounts to a government authority ▲

Question: *Are annual accounts submitted to a public authority?

Answer: Yes, there is an obligation to submit annual accounts for all types of companies.

Notes:

- According to the Code des Societes updated on May 2020, Belgium societies are required to file annual accounts with the National Bank of Belgium (Code des Societes, Art 3:10). Small companies still need to file accounts, though condensed ones (ibid., Art 3:11). Small companies are defined as companies that do not exceed one of the following limits at the balance sheet date of the last closed financial year: 1. Net turnover of €9,000,000. 2. Balance sheet total €3,650,000. 3. Employee number of 50 (ibid., Article 1.24). The Global Forum reports: "In particular, the annual accounts of medium and large companies must be filed with the BNB [Banque Nationale de Belgique - National Bank of Belgium] within 30 days following their approval by the general assembly, as indicated in the 2013 report" (GF 2018: 51).

Sources:

- GF 2011a: 37; GF 2013: 46; GF 2018: 50-51 [↗](#)
- Code des Societes: Articles 1:24, 3:10, 3:11. [↗](#)
- https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2019032309&table_name=loi
- https://www.nordeatrade.com/dk/explore-new-market/belgium/accounting?vider_sticky=oui
- <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-belgiumhighlights-2020.pdf>
- <https://www.nbb.be/en/central-balance-sheet-office/filing-annual-accounts/who-has-file-accounts/belgian-enterprises>

ID 201 — Online availability of annual accounts / financial statements ▲

Question: *Are annual accounts available on a public online record (up to 10 €/US\$/GBP)?

Answer: OPEN: Yes, company accounts are always online for free & in open data format.

Notes:

- The annual and consolidated accounts submitted in the last ten years are available online in pdf and xbrl format (nbb.be). A random check showed that the balance sheet of most companies are indeed available online for free and can be downloaded in both pdf and XBRL format.

Sources:

- <https://www.nbb.be/fr/centrale-des-bilans/consulter/application-consult/lapplication>

Haven Indicator 10: Public Country By Country Reporting (CBCR) 50

This indicator measures whether the companies listed on the stock exchanges or involved in certain sectors (eg extractives) or incorporated in a given jurisdiction are required to publish publicly worldwide financial reporting data on a country-by-country reporting basis.

ID 318 — Public country-by-country reporting standard ▲

Question: *CBCR: Are companies listed on the national stock exchange or incorporated in the jurisdiction required to comply with a worldwide country-by-country reporting standard?

Answer: Yes, partial disclosure for both extractives and banking sector.

Notes:

- Under the European Union's country-by-country reporting rules for the extractive industries and logging of primary forests, member states "shall require large undertakings and all public-interest entities active in the extractive industry or the logging of primary forests to prepare and make public a report on payments made to governments on an annual basis," according to article 42 of the European Directive (2013/34/EU). European Union member states were required to issue enforcing rules of the Directive by July 2015 and reporting began for financial years commencing on or after 1 January 2016 (Article 53, 2013/34/EU Directive).
- In the banking sector, European Union member states have been required to ensure all banks disclose annually from 1 January 2015, as specified in the Capital Requirements Directive IV (Art. 89, Directive 2013/36/EU).
- While in 2018 the European Union previously launched infringement procedures against Belgium in relation to the transposition of the Capital Requirements Directive IV, this infringement case has been closed and in 2019 the European Commission's portal reports transposition has already been completed by Belgium.

Sources:

- Email communication with Eurodad, 09.09.2020 [🔗](#)
- http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1992092331&table_name=wet
- http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2014112701
- http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=BE&title=2013%2F36&submit=Search
- Email communication with Inti Ghysels, 30.10.2017 [🔗](#)
- Art. 89 ('Country-by-country reporting'), Directive 2013/36/EU [🔗](#)
- <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0036&from=EN>

Haven Indicator 11: Robust Local Filing of Country By Country Reporting (CBCR)

100

This indicator assesses whether a jurisdiction, going beyond the OECD standard, ensures its own access to the country-by-country reports of any relevant foreign multinational enterprises with domestic operations. Access is ensured if the jurisdiction requires country-by-country reports to be filed locally by the local subsidiary or branch of a foreign multinational enterprise whenever the jurisdiction does not obtain these reports through the automatic exchange of information for whatever reason.

ID 419 — Robust local filing of country-by-country reporting

Question: *CBCR: Is there a local filing requirement of a global country-by-country reporting file (according to OECD's BEPS Action 13) by large corporate groups (with a worldwide turnover higher than 750 million Euro) and local subsidiaries of foreign groups?

Answer: OECD Legislation: Secondary mechanism is subject to restrictions imposed by OECD model legislation; or no secondary mechanism at all (only the domestic ultimate parent entity has to file the CbCR)

Notes:

- While Belgium's regulations used to go beyond the OECD Model legislation, the OECD noted that Belgium changed its regulations and now it is consistent with the OECD Model legislation (OECD CbCR 2018: 72). Specifically, the OECD wrote: "According to Art. 321/2, para. 2 of the Belgian Income Tax Code, local filing is required when 12 months after the end of the fiscal year, a QCAA is not in effect between Belgium and the jurisdiction of the ultimate parent entity, which may be interpreted as being wider than permitted under the terms of reference (i.e. in the absence of an international agreement). Belgium however clarified in an official guidance that local filing is required in the circumstances contained in the terms of reference (see Circular 2017/C/56 relating to the additional transfer pricing filing requirements published on 4 September 2017, paragraph 14: "the Ultimate Parent Entity shall prepare and file a CbC report for its group but there is, no later than by 12 months after the last day of the reporting period, an international agreement but no QCAA providing for the Automatic Exchange of Information of such CbC report with Belgium")." (OECD 2018: Belgium, footnote 12). In addition, "No changes were identified with respect to the limitation on local filing obligation" (OECD CbCR 2019: 69). This was confirmed in 2020 (OECD CbCR 2020: 51)

Sources:

- OECD CbCR 2018 [🔗](#)
- Soo & Antoine Glaize, p. 648 [🔗](#)
- OECD CbCR 2019 [🔗](#)
- OECD CbCR 2020 [🔗](#)

Haven Indicator 12: Unilateral Cross-Border Tax Rulings

80

This indicator measures whether and to what extent a country publishes online unilateral cross-border tax rulings; and for countries with extractive industries, whether extractive industries contracts are published.

ID 363 — Tax rulings availability

Question: *Tax Rulings: Are unilateral cross-border tax rulings (e.g. advance tax rulings, advance tax decisions) available in laws or regulation, or in administrative practice?

Answer: Yes

Notes:

- Belgium can issue the following tax rulings according to the OECD: "(i) rulings related to preferential regimes; (ii) cross-border unilateral advance pricing agreements (APAs) and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles; (iii) rulings providing for unilateral downward adjustments; and (iv) permanent establishment rulings" (OECD UTR 2019: 58). The 2018 OECD Report goes on to say: "These rulings are published in an anonymised way." (OECD UTR 2018: 65). Furthermore, "In Belgium, there are four services that issue rulings within the scope of the transparency framework: the international relations department, two non-resident taxpayers services offices (a centralised and specialised division in Brussels, Centrum Buitenland, and the Polyvalent Center Eupen), the Ruling Commission and the transfer pricing unit of the tax audit and compliance management office" (Ibid).

Sources:

- OECD UTR 2018: 65 [🔗](#)
- EU Tax Rulings 2015 [🔗](#)
- EU Statistics on APAs 2016 [🔗](#)
- OECD UTR 2019: 58 [🔗](#)

ID 421 — Tax rulings disclosure

Question: *Tax Rulings: Are all unilateral crossborder tax rulings (e.g. advance tax rulings, advance tax decisions) published online for free, either anonymised or not?

Answer: MINIMAL (ANONYMISED AND NOT FULL TEXT): All unilateral crossborder tax rulings are published online, but in a reduced version and without the name of the taxpayer concerned.

Notes:

- Advance tax rulings and unilateral advance pricing agreements are published individually or in the annual report. Every publication of tax rulings is anonymous and published in a reduced form (EU Tax Rulings 2015: 57). According to the OECD, rulings related to preferential regimes, cross-border unilateral rulings, downward adjustments and permanent establishment rulings "are published in an anonymised way" and are available online (OECD UTR 2018: 65; ruling.be). A review of these rules in the latest OECD Unilateral Tax Regime Report does not find any change to the circumstances in Belgium (OECD UTR 2020: 61-62).

Sources:

- OECD UTR 2018: 65 [↗](#)
- EU Tax Rulings 2015 [↗](#)
- IBFD 2018b [↗](#)
- https://www.accountancyeurope.eu/wp-content/uploads/Advance_tax_rulings.pdf
- <https://www.ruling.be/fr/telechargement/decisions>
- OECD UTR 2020: 61-62 [↗](#)
- OECD UTR 2019 [↗](#)

ID 561 — Mining contracts disclosure in law [▲](#)

Question: *Mining contracts in law: Are all extractive industries mining contracts required by law to be disclosed?

Answer: Not Applicable

Sources:

- Contract Disclosure Policy and Practice Tracker, Natural Resource Governance Institute 28.07.2020 [↗](#)
- <https://docs.google.com/spreadsheets/d/1FXEeD43jw6VYHV8yS-8KJ5-rR5I0XtKxVQZBWzr-ohY/edit#gid=4>

ID 562 — Mining contracts disclosure in practice [▲](#)

Question: *Mining contracts in practice: Are all extractive industries mining contracts published online in practice?

Answer: Not applicable

Sources:

- Contract Disclosure Policy and Practice Tracker, Natural Resource Governance Institute 28.07.2020 [↗](#)
- <https://docs.google.com/spreadsheets/d/1FXEeD43jw6VYHV8yS-8KJ5-rR5I0XtKxVQZBWzr-ohY/edit#gid=41>

ID 563 — Petroleum contracts disclosure in law [▲](#)

Question: *Petroleum contracts in law: Are all extractive industries petroleum contracts required by law to be disclosed?

Answer: Not Applicable

Sources:

- Contract Disclosure Policy and Practice Tracker, Natural Resource Governance Institute 28.07.2020 [↗](#)
- <https://docs.google.com/spreadsheets/d/1FXEeD43jw6VYHV8yS-8KJ5-rR5I0XtKxVQZBWzr-ohY/edit#gid=9>

ID 564 — Petroleum contracts disclosure in practice [▲](#)

Question: *Petroleum contracts in practice: Are all extractive industries petroleum contracts published online in practice?

Answer: Not applicable

Sources:

- Contract Disclosure Policy and Practice Tracker, Natural Resource Governance Institute 28.07.2020 [↗](#)
- <https://docs.google.com/spreadsheets/d/1FXEeD43jw6VYHV8yS-8KJ5-rR5I0XtKxVQZBWzr-ohY/edit#gid=9>

Haven Indicator 13: Reporting of Tax Avoidance Schemes [▲](#)

80

This indicator assesses two components of mandatory reporting to tackle tax avoidance schemes: (i) the reporting of tax avoidance schemes, in which we assess whether a country requires both taxpayers and tax advisers to report tax avoidance schemes they have used; and (ii) the reporting of uncertain tax positions, in which we assess whether a country requires taxpayers and tax advisers to report uncertain tax positions for which reserves have been created in annual corporate accounts.

ID 403 — Taxpayers' mandatory reporting of tax avoidance schemes [▲](#)

Question: *Taxpayers reporting schemes: Are taxpayers required to report at least annually on certain tax avoidance schemes they have used?

Answer: No.

Notes:

- In December 2019, Belgium published legislation implementing the European Union Directive which requires tax advisers to disclose and exchange information on cross-border tax arrangements (ey.com). However, the primary obligation to report rests with the intermediary (tax adviser), and the taxpayer is only required to disclose the schemes under specific circumstances: "The reporting obligation rests with the relevant taxpayer when: there is no EU based intermediary engaged; or the EU intermediary is bound by professional secrecy and that is not waived by the relevant taxpayer" (home.kpmg).

Sources:

- IBFD 2020b [↗](#)
- <https://home.kpmg/be/en/home/insights/2020/06/tl-belgian-mandatory-disclosure-rules.html#:~:text=These%20new%20rules%20require%20the,as%20of%201%20July%202020>
- <https://taxinsights.ey.com/archive/archive-news/belgium-publishes-legislation-on-mandatory-disclosure-rules.aspx>

ID 404 — Tax advisers' mandatory reporting of tax avoidance schemes [▲](#)

Question: *Tax advisers reporting schemes: Are tax advisers (who help companies and individuals to prepare tax returns) required to report at least annually on certain tax avoidance schemes they have sold/marketted (if applicable)?

Answer: Yes, but the schemes are only reported to the tax administration (they are not published).

Notes:

- On 25 May 2018, the European Council adopted Directive (EU) 2018/822 (amending Directive 2011/16/EU) as regards mandatory automatic exchange of information in relation to reportable cross-border arrangements) which requires intermediaries such as tax advisers, accountants and lawyers that design and/or promote tax planning schemes to report on schemes that are considered potentially aggressive. Member states had until December 2019 to transpose the directive to internal legislation, and until July 2021 to start exchanging information (eur-lex.europa.eu).

On 24 June 2020, following the challenges of COVID-19, the European Council adopted Directive (EU) 2020/876 according to which member states will have an option to defer the filing of information on reportable cross-border arrangements by up to six months. The new Directive, however, does not extend the December 2019 deadline for transposing the Directive (EU) 2018/822 into EU member states internal legislation. In December 2019, Belgium published legislation implementing the European Union Directive (ey.com).

Sources:

- IBFD 2020b [↗](#)
- <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32018L0822>
- <https://home.kpmg/be/en/home/insights/2020/06/bxl-belgian-mandatory-disclosure-rules.html#:~:text=These%20new%20rules%20require%20the,as%20of%201%20July%202020.>
- <https://taxinsights.ey.com/archive/archive-news/belgium-publishes-legislation-on-mandatory-disclosure-rules.aspx>

ID 405 — Taxpayers' mandatory reporting of uncertain tax positions ▲

Question: *Taxpayers reporting uncertain tax positions: Are taxpayers required to report at least annually on details of uncertain tax positions for which reserves have been created in the annual accounts?

Answer: No.

Sources:

- IBFD 2020b [↗](#)

ID 406 — Tax advisers' mandatory reporting of uncertain tax positions ▲

Question: *Tax advisers reporting uncertain tax positions: Are tax advisers required to report at least annually on details of uncertain tax positions for which reserves have been created in the annual accounts of the companies they advised?

Answer: No.

Sources:

- IBFD 2020b [↗](#)

Haven Indicator 14: Tax Court Transparency ▲ 100

This indicator assesses the openness of a jurisdiction's judicial system in tax matters by analysing the public online availability of verdicts, judgements, and sentences.

ID 409 — Criminal tax courts' publication of decisions ▲

Question: *Is the full text of judgements / verdicts issued by criminal tax courts published online for free, or for a cost of up to 10 €/US\$/GBP??

Answer: No, full text of verdicts is not always online (up to 10€/US\$/GBP)?

Notes:

- According to the European E-Justice Portal, only selected parts of judgements are published online, and the selection is based on criteria of societal and legal interest (e-justice.europa.eu).

Sources:

- https://e-justice.europa.eu/content_member_state_case_law-13-be-en.do?member=1
- <http://jure.juridat.just.fgov.be/JuridatSearchCombined/>

ID 410 — Civil tax courts' publication of decisions ▲

Question: *Is the full text of judgements / verdicts issued by civil tax courts published online for free, or for a cost of up to 10 €/US\$/GBP?

Answer: No, full text of verdicts is not always online (up to 10€/US\$/GBP)?

Notes:

- According to the European E-Justice Portal, only selected parts of judgements are published online, and the selection is based on criteria of societal and legal interest (e-justice.europa.eu).

Sources:

- <http://jure.juridat.just.fgov.be/JuridatSearchCombined/>
- https://e-justice.europa.eu/content_member_state_case_law-13-be-en.do?member=1

ANTI-AVOIDANCE

Haven Indicator 15: Deduction Limitation of Interest Payments ▲ 100

This indicator assesses a country's limitations on the deduction of interest expenses from the corporate income tax base. It focuses on limits placed on interest paid to non-resident group affiliates ("intra-group interest payments"), including by means of a fixed ratio rule.

ID 517 — Outbound intra-group interest deduction limitation ▲

Question: Outbound intra-group interest deduction limitation: Does the jurisdiction restrict or disallow deducting from the corporate income tax base interest paid to non-resident group affiliates?

Answer: NO: No deduction limitation for intra-group interest payments.

Notes:

- While Belgium has transposed the ATAD into domestic legislation so that it imposes intra-group interest deduction limitation, the jurisdiction opted to exclude such limitation on interest payments that are related to loan agreements signed before 17 June 2016. Given that this exclusion may allow for such agreements to be abused for circumventing the deduction limitation rule and that there is no indication of enforcement measures in place to prevent this, we consider this exclusion a loophole to the limitation. Based on the Index's weakest link principle, we thus conclude that in effect the interest limitation deduction in Belgium is not sufficient enough. Belgium's interest limitations rule for intra-group payments - which are based on a 5:1 debt/equity ratio - has been in force since 2012. However, Belgium uses discretion in applying the thin capitalisation ratio by comparing the actual leverage to the leverage on an arm's length basis. This reduces the impact of the thin capitalisation rules considerably (IMF 2014). Besides, interest payments are not deductible if the recipient income is exempt or taxed at a reduced rate in

respect of the interest paid on the debt. According to the notice published by the European Commission following a review of member states' regime (published in the Official Journal on 7 December 2018), Belgium's system was not among the "equally effective" regimes so it had to transpose the EBITDA rule before 1 January 2019. Even though the Belgium government had announced that it would transpose EBITDA-based interest limitation rules from 2020 based upon the exception provision in Article 11 (6) (news.pwc.be), the parliament has approved the required amendments in 2019 (IBFD 2020: 10.3). However, the law excludes from the scope interest payments that are related to loan agreements signed before 17 June 2016 (IBFD 2020: 10.3). Besides, the Commission has determined that "Belgium excludes from the interest limitation rules certain types of entities, which do not qualify as 'financial undertakings' under ATAD" and requested Belgium to correctly transpose the ATAD (ec.europa.eu). This means that some non-financial undertaking are considered within the exclusion so they are not required to implement the EBITDA rule in line with the ATAD. On 17 December 2020, Belgium has amended its EBITDA rule to address the criticism of the European Commission (IBGF 2020g).

Sources:

- [IBFD 2020b](#)
- [European Commission 2018](#)
- <https://news.pwc.be/summer-deal-advances-the-implementation-of-the-belgian-ebitda-rule-by-one-year/>
- [IMF 2014](#)
- <https://news.pwc.be/entities-companies/>
- https://ec.europa.eu/commission/presscorner/detail/en/INF_20_1212
- [IBFD 2020g](#)

ID 518 — Group ratio rule (as part of fixed ratio interest deduction limitation) ▲

Question: Group ratio rule: Does the jurisdiction apply a group ratio rule opt-in alongside fixed ratio limitations on interest deduction?

Answer: Not applicable

Notes:

- Given we consider that the implemented fixed ratio rule is not sufficient enough (see ID517), the availability of a group ratio or a worldwide debt-to-equity ratio carve-out is not relevant.

Sources:

- [IBFD 2020b](#)

ID 519 — Financial undertaking exclusion (as part of fixed ratio interest deduction limitation) ▲

Question: Financial undertaking exclusion: Does the jurisdiction apply a financial undertaking exclusion alongside fixed ratio limitations on interest deduction?


Answer: Not applicable

Notes:

- Given we consider that the implemented fixed ratio rule is not sufficient enough (see ID517), the availability of a financial undertaking exclusion is not relevant.

Sources:

- [IBFD 2020b](#)

Haven Indicator 16: Deduction Limitation of Royalty Payments ▲  100

This indicator measures whether or to what extent a jurisdiction disallows or restricts the deduction of royalties paid to non-resident group affiliates ("intra-group royalty payments") from the corporate income tax base.

ID 520 — Outbound intra-group royalty deduction limitation ▲

Question: Outbound intra-group royalty deduction limitation: Does the jurisdiction restrict or disallow deducting from the corporate income tax base royalties paid to non-resident group affiliates?

Answer: NO: No deduction limitation for intra-group royalty payments.

Notes:

- Belgium disallows intra-group royalty payments if the payee is not liable to income tax or is subject for this income to a notably favorable tax treatment than the Belgium payer. However, taxpayer is able to prove otherwise showing there is a genuine business transaction and the payment is not extremely high (IBFD 2020b: 1.4.6).

Sources:

- [IBFD 2020b](#)

Haven Indicator 17: Deduction Limitation of Service Payments ▲  100

This indicator measures whether or to what extent a jurisdiction restricts or disallows the deduction of intra-group services payments (management fees, technical fees, consulting services fees) paid to non-resident group affiliates from the corporate income tax base.

ID 521 — Outbound intra-group services deduction limitation ▲

Question: Outbound intra-group services deduction limitation: Does the jurisdiction restrict or disallow deducting from the corporate income tax base payments for management, technical, legal or accounting services paid to non-resident group affiliates?

Answer: No, there is no deduction restriction beyond transfer pricing rules, the arm's length principle or other generic rules.

Notes:

- Belgium disallows intra-group service payments if the payee is not liable to income tax or is subject for this income to a notably favourable tax treatment above the Belgium payer. However, taxpayer is able to prove otherwise showing there is a genuine service and the payment is not extremely high (IBFD 2020b: 1.4.7). Since there is a discretion, we think this limitation for service payments is not sufficient.

Sources:

- [IBFD 2020b](#)

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

ID 508 — Dividend-related party payment ▲

Question: Dividend-Related Party Payment: What is the (lowest) applicable unilateral cross-border withholding tax rate for outgoing dividend payments to a related party?

Answer: 0 %

Notes:

- Belgium exempts dividend payments to qualifying recipients resident in the EU Member States from withholding tax under the conditions laid down in the Parent-Subsidiary Directive (2011/96/EU). Under the treaties between the European Union and Iceland, Liechtenstein, Norway and Switzerland, dividend payments to companies resident in those countries are also exempt from dividend withholding tax (IBFD 2020b: 7.3.4.1).

Sources:

- [IBFD 2020b](#)

This indicator assesses whether countries apply robust non-transactional controlled foreign company (CFC) rules. CFC rules are a type of specific anti-avoidance rules that target particular taxpayers or transactions. Like other types of specific anti-avoidance rules, CFC rules are more effective than general anti-avoidance rules in capturing the specific type of tax avoidance on which they focus.

ID 522 — Controlled Foreign Company (CFC) rules ▲

Question: CFC-Rules: Does the jurisdiction apply robust non-transactional CFC rules?

Answer: NO, TRANSACTIONAL: While there are CFC rules, these are only transactional type of rules which allow attribution of profit to the CFC according to the arm's length principle, e.g. OECD Transfer Pricing Guidelines.

Notes:

- Belgium has introduced CFC rules in its domestic law to implement the Anti-Tax Avoidance Directive. Rules have been effective as of 1 January 2019. Belgium opted for model B of CFC rules, i.e. transactional type of rules, which allow attribution of profit to the CFC according to the arm's length principle (IBFD 2020b: 10.4).

Sources:

- [IBFD 2020b](#)

DOUBLE TAX TREATY AGGRESSIVENESS

This indicator analyses the aggressiveness of a jurisdiction in their double tax agreements with other countries, as revealed by the withholding tax rates that apply to the payment of dividends, interests and royalties.

ID 571 — Aggregate tax treaty aggressiveness ▲

Question: Aggregate-Aggressiveness: What is the scaled value of all negative differentials between the assessed jurisdiction's treaty withholding rates on all three payment types (dividend, interest and royalty) and those of its treaty partner jurisdiction.

Answer: 45.2767158057951

Global Scale Weight breakdown

 1.6%

Inward foreign direct investment (US\$)

\$ 709,752,142,872

Outward foreign direct investment (US\$)

\$ 811,169,107,509

Sum of inward and outward foreign direct investment (US\$)

\$ 1,520,921,250,381

Global total of sum of inward and outward foreign direct investment (US\$)

\$ 94,690,323,833,261

Global scale weight (share of jurisdiction's inward and outward foreign direct investment on the global total)

1.61%