

USA

Rank: #25

USA is responsible for 1.16% of the world's corporate tax abuse risks.

CTHI Value: 514

Haven Score: 46.9



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: 12%



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



46.9

LOWEST AVAILABLE CORPORATE INCOME TAX

Haven Indicator 1: LACIT ▲



40

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: 25.77 %

Notes:

- The OECD calculates the combined corporate income tax rate by adding the central government CIT rate (less deductions for sub-national taxes) with a representative sub-central government income tax rate of 6.03%, resulting in a sub-central government average of 6.1% (stats.oecd.org). According to the explanatory annex of the OECD tax database for corporate income taxation: "The representative sub-central rate is a weighted average of state corporate income tax rates [...] The weighted average rate is the sum for all states of the top corporate income tax rate for each state multiplied by the state's share in personal income" (OECD Stats 2020c). The rate calculated by KPMG (27%) is slightly larger than the one provided by OECD because it considers a sub-central government income tax rate of 7.5%: "The top marginal rate generally ranges from 0% to 12%, with the mean of the top state tax rates being roughly 7.5%" (KPMG 2020). Given that for this indicator we assess the lowest available corporate income tax, we consider the OECD statutory rate of 26.77% as the one applicable because it includes a lower sub-central government corporate income tax rate of 6.03%.

Sources:

- OECD Stats 2020c, p.21 [↗](#)
- https://stats.oecd.org/Index.aspx?DataSetCode=TABLE_I11
- <http://www.oecd.org/tax/tax-policy/tax-database/corporate-and-capital-income-tax-explanatory-annex.pdf>
- <https://home.kpmg/xx/en/home/services/tax/tax-tools-and-resources/tax-rates-online.html>
- KPMG 2020 [↗](#)
- 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

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: 21 %

Notes:

- According to KPMG: "The federal corporate income tax rate is 21%, for taxable years beginning after December 31, 2017. Most states and many local governments impose net income taxes. The top marginal rate generally ranges from 0% to 12%, with the mean of the top state tax rates being roughly 7.5%. [...] The effective rate may vary significantly depending on the locality in which a corporation conducts business" (KPMG 2020). Given that some local governments do not impose net income tax, we consider the corporate tax rate for this indicator to be equal to the federal tax rate, i.e., 21%.

Sources:

- KPMG 2020 [↗](#)
- <https://home.kpmg/xx/en/home/services/tax/tax-tools-and-resources/tax-rates-online/corporate-tax-rates-table.html>

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

Notes:

- Limited Liability Companies are considered partnerships and therefore out of the scope of this indicator. For more details on the methodology, please read Haven Indicator 1 (LACIT).

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: Not applicable

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: Yes, at least all locally incorporated companies are considered tax resident.

Notes:

- In U.S.A. all domestic corporations are treated as residents of the country based on the place of incorporation (IBFD 2020b; 1.1.5.1.1.). Moreover, a corporation is deemed domestic for federal purposes if it is created or organized in the US or under the laws of the US, one of the 50 states, or the District of Columbia, regardless of the location of management and control of the corporation (Deloitte 2020a).

Sources:

- IBFD 2020b [↗](#)
- Deloitte 2020a [↗](#)

LOOPHOLES AND GAPS

Haven Indicator 2: Foreign Investment Income ▲

25

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:

- In 2017, the United States tax reform legislation known as the Tax Cuts and Jobs Act has introduced participation exemption for the foreign-source dividend income received by US corporations from 10 per cent-owned foreign subsidiaries (IBFD 2020b : 7.2.1.3.2.).

Sources:

- IBFD 2020b [↗](#)

ID 554 — Double taxation relief, royalties ▲

Question: Legal Person, Resident: Royalties

Answer: Credit.

Notes:

- The USA implements the credit method for the relief of taxes paid for foreign royalty income (IBFD 2020d: 6.1.4.; IBFD 2020b: 7.2.6.3.).

Sources:

- IBFD 2020b [↗](#)
- IBFD 2020d [↗](#)

ID 553 — Double taxation relief, interest ▲

Question: *Legal Person, Resident: Interest

Answer: Credit.

Notes:

- The USA implements the credit method for the relief of taxes paid for foreign interest income (IBFD 2020d: 6.1.4; IBFD 2020b: 7.2.6.3.).

Sources:

- IBFD 2020b. [↗](#)
- IBFD 2020d. [↗](#)

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

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

Answer: Credit.

Notes:

- Subject to certain limitations, the U.S. allows a direct foreign tax credit for foreign withholding taxes paid (IBFD 2020b: 7.2.6.1.2.1.). Presumably, such foreign tax credit applies to dividends received from an independent foreign legal entity (less than 10% controlled by U.S. payee).
- US corporate taxpayers can claim 50 percent dividends received deduction (DRD) for stock ownership less than 20 percent in domestic corporations (IBFD 2020b: 6.1.3.1.1) However, with regards to dividends received from foreign corporations, the DRD is not available for holdings of less than 10% (IBFD 2020b: 6.1.3.1.2) Thus if the dividend payor is an "independent legal person" (less than 10% controlled), limitation of double taxation through deductions is not available.

Sources:

- IBFD 2020b. [↗](#)

Haven Indicator 3: Loss Utilisation ▲

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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: Yes

Notes:

- In the US new COVID-19 relief laws allow companies to carry back Net Operating Losses arising in tax years 2018, 2019 and 2020 for a 5-year period. According to IBFD, the taxable income may be fully offset by net operating losses, without limits in tax years previous to 2021 (IBFD 2020b: 1.8.1.2.). In addition, IRC § 1212(a) determines that capital losses which were not deducted during the taxable year may be carried back to the 3 preceding taxable years to offset capital gains in such years (ibid.). Given that capital losses can be carried back also in 2021 onwards, according to the weakest link principle, we consider that the USA allows loss carry-back.

Sources:

- IBFD 2020b. [↗](#)

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:

- NOL (Net operating losses (i.e. the excess of the allowable deductions for the taxable year)) may be carried forward indefinitely while capital losses can be carried for 5 years. Net operating losses incurred in taxable years beginning after 31 December 2017 are permitted to be carried forward indefinitely. However, losses carried forward to a subsequent taxable year may only be used to offset 80% of the taxable income in such year (IBFD 2020b: 1.8.1.2; Deloitte 2020a).
- As part of COVID-19 measures, the limitation of 80% of taxable income was temporarily suspended, allowing an NOL carryforward to fully offset taxable income in tax years beginning before Jan. 1, 2021. Nonetheless, given that the limitation is applied back with regard to the losses incurred in 2021 onwards (journalofaccountancy.com), we consider that such limitation is still applicable for this edition of the index.

Sources:

- IBFD 2020b. [↗](#)
- <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-unitedstateshighlights-2020.pdf?nc=1>
- Deloitte 2020a. [↗](#)
- <https://www.journalofaccountancy.com/issues/2020/nov/deducting-losses-cares-act-coronavirus-relief.html>
- https://uscode.house.gov/view.xhtml?num=0&edition=prelim&req=granuleid:USC-prelim-title26-section172#substructure-location_b_3

Haven Indicator 4: Capital Gains Taxation ▲

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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: 21 %

Notes:

- In general, corporations are subject to tax on capital gains and the tax rates are the same as the tax rates that apply to ordinary income (which is a uniform tax of 21%). There are no general exemptions for capital gains realised by US corporations, hence, capital gains from all worldwide sources, including foreign source, are included in the income of resident companies (IBFD 2020b: 1.7.5.). The participation exemption only applies to foreign-source dividends received from a "specified 10-percent owned foreign corporation" and not on capital gains (ibid.: 6.1.6.2.).

Sources:

- IBFD 2020b; Deloitte 2020a; PWC 2020a [↗](#)

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: 21 %

Notes:

- No specific exemption applies to "tax resident" corporations, for capital gains derived from foreign sources (IBFD 2020b: 7.2.1.5.). However, it must be indicated that constructive exemptions exist for limited liability entities, in cases where the entity is not deemed to be "tax resident" (even if effective management and control is in the United States) (ibid.: 1.1.5.1.1.), or in cases where a limited liability company is deemed not to be a corporation, and considered "tax transparent" (ibid.: 7.1.1.2.).

Sources:

- IBFD 2020b; Deloitte 2020a; PWC 2020a [↗](#)

Haven Indicator 5: Broad Exemptions ▲

50

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:

- "Certain income of pass-through entities are exempt from the corporate income tax. The income of sole proprietorships, S corporations, most partnerships, and other entities (such as regulated investment companies, real estate investment trusts, real estate mortgage investment conduits, and cooperatives) is taxed only at the individual level. The special tax rules for these pass-through entities are not classified as tax expenditures because the tax benefits are available to any entity that chooses to organize itself and operate in the required manner." (JCT 2018: 8-9; IBFD 2020b; 2.1.1.1.; IBFD 2020d; 1.2)

Sources:

- JCT 2018: 8-9; [↗](#)
- IBFD 2020b [↗](#)
- BFD 2020d [↗](#)

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: Full: Yes, there are full tax exemptions.

Notes:

- "Certain income of pass-through entities is exempt from the corporate income tax. The income of sole proprietorships, S corporations, most partnerships, and other entities (such as regulated investment companies, real estate investment trusts, real estate mortgage investment conduits, and cooperatives) is taxed only at the individual level. The special tax rules for these pass-through entities are not classified as tax expenditures because the tax benefits are available to any entity that chooses to organize itself and operate in the required manner." (JCT 2018: 8-10; IBFD 2020b; 2.1.1.1.; IBFD 2020d; 1.2)
- Interest received on bonds issued by the US states and municipalities is exempt from federal taxation provided that the bonds are issued for approved public purposes and the issuer complies with specified requirements. (IBFD 2020d; 1.3.2).

Sources:

- JCT 2018: 8-10 [↗](#)
- Deloitte 2017 [↗](#)
- IBFD 2020b [↗](#)
- IBFD 2020d [↗](#)
- <https://uscode.house.gov/view.xhtml?num=0&edition=prelim&req=granuleid:USC-prelim-title26-section103>

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: None: No, there are no specific exemptions.

Notes:

- The United States offers a wide range of tax incentives, however, at the federal level, the vast majority of those incentives do not constitute a reduction in the CIT rate. Instead, most incentives are cost-based. For example, among the incentives available in the fossil fuel sector there is a "credit for enhanced oil recovery costs" (Sec. 43 IRC) and a "credit for producing oil and gas from marginal wells" (Sec. 45I IRC; IBFD 2020d 1.7.3; IBFD 2020b 12.4.). While these two incentives only account for USD 7.1bn revenue lost from 2018-2022 (JCT 2018 : 21-23), there are specific cost-based incentives that have much more weight in the US budget. With regards to real estate, accelerated depreciation schedules account for over USD 330bn revenue lost in the 2018-2022 period (JCT 2018 : 24). Because the assessment methodology focuses here on profits-based incentives, we disregard in the case of the US a significant number of cost-based incentives, which, in effective terms, may be comparable to a CIT rate reduction.

Sources:

- JCT 2018 [↗](#)
- IBFD 2020b [↗](#)
- BFD 2020d [↗](#)

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; 2020d](#)

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; 2020d](#)

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; 2020d](#)

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; 2020d](#)

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: None: No, there are no specific exemptions.

Sources:

- [IBFD 2020b; 2020d](#)

ID 532 — Distribution sector tax exemption ▲

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

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

Sources:

- [IBFD 2020b; 2020d](#)

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; 2020d](#)

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; 2020d](#)

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; 2020d](#)

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: None: No, there are no specific exemptions.

Sources:

- [IBFD 2020b; 2020d](#)

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; 2020d [↗](#)

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: None: No, there are no specific exemptions.

Sources:

- IBFD 2020b; 2020d [↗](#)

Haven Indicator 6: Economic Zones and Tax Holidays ▲

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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:

- As explained in further detail on the methodology document for Key Indicator 6, we consider here exemptions or reductions of the corporate income tax liability applicable to qualifying corporations. We account for profits-based incentives only, that is, incentives that are available even in the absence of investment expenses incurred by the corporation. If a corporation can benefit from a reduction of CIT by simply undertaking a specific business activity, or by simply being located in a designated Economic Zone, for example, we consider these exemptions profits based. In HI 6, we consider profits-based tax incentives that are either awarded for a limited period of time, or available under geographical criteria (Economic Zones). For each of these two categories, we assess whether the incentive constitutes a full or partial exemption from tax.
- In the case of the US, the vast majority of available incentives are cost-based, and qualification for the tax reduction requires a specific costs incurred by the corporation, such as a threshold of employed workers, or certain dollar amount spent in qualified machinery or land. Thus for example, although having an otherwise nefarious impact in the environment, the credit for enhanced oil recovery costs provided in IRC section 43 is not accounted here because it is cost-based. Conversely, the reduced rate for repatriated profits of US multinational corporations is considered profits-based, because no additional expense is required by the corporation to qualify for the reduced 8% or 15.5% CIT rate. (JCT 2018; IBFD 2020b: 10.4.3.)
- Furthermore, "State and local governments provide numerous incentives to encourage business investment and, thus, employment in their jurisdictions." (PWC 2020a) In order to analyse State-level tax incentives, we have to take into account their interaction with Federal Income Taxation, in addition to considering whether the incentives are profits-based or not. With the recent tax reform, the treatment of "contributions to capital" has changed in relation to State tax incentives, because now "the term 'contribution to the capital of the taxpayer' does not include [...] any contribution by any governmental entity or civic group (other than a contribution made by a shareholder as such)." (IRC, 26 U.S.C § 118). Thus, a contribution to the capital of a corporation in the form of a refundable or transferable State tax credit is now expressly included in the gross income of a corporation for Federal Income Tax calculations. If the tax incentive/credit is not refundable or transferable, this means that it is only applicable to offset State income tax; and the current IRS interpretation is that such reduction in State income tax is not considered income for Federal Income Tax purposes. Thus, in these cases, the full amount of State income tax – without taking into account the tax credit or rate reduction – is allowed as a deduction for Federal Income Tax (IRC, 26 U.S.C § 164).

Sources:

- IBFD 2020b; IBFD 2020d; PWC 2020a [↗](#)
- <https://www.irs.gov/newsroom/tax-cuts-and-jobs-act-a-comparison-for-large-businesses-and-international-taxpayers>

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: 1

Notes:

- The US tax reform included the following measure: "In transition to a territorial system, the existing stock of unrepatriated profits of U.S. MNEs is deemed repatriated and subject to a one-time tax. This tax is set at 15.5 percent for funds held in cash or equivalent assets and 8 percent for all other assets. The payment is spread over 8 years and is independent of whether firms actually repatriate any of these profits." (IMF 2018; IBFD 2020b: 10.4.3.) The reduced tax rate on active income of controlled foreign corporations is assessed by the Joint Committee on taxation as amounting to a revenue loss of \$73.9 billions in 2018, assessing the total expenditure over 2018-2022 to \$383.1 billion dollars. (JCT 2018)

Sources:

- IBFD 2020b; IBFD 2020d; PWC 2020a [↗](#)
- IMF 2018 [↗](#)

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:

- For the United States, we consider that tax incentives available under State law are incentives applicable to "economic zones", insofar as State corporate taxation is included in the Federal tax system, and such federal taxation is legislated centrally at the federal level. Otherwise said, the U.S. congress has authority to change federal tax rules so as to disallow State tax incentives. (see above note [ID540]) No evidence has been found of profits-based tax incentives at State level that would effectively lower the federal CIT liability (tax incentives/credits that are not refundable or transferable). (IBFD 2019b)

Sources:

- IBFD 2020b; 2020d [↗](#)

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 [ID504].

Sources:

- IBFD 2020b; 2020d [↗](#)

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 [ID504].

Sources:

- IBFD 2020b; 2020d [↗](#)

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 [ID504].

Sources:

- IBFD 2020b; 2020d [↗](#)

Haven Indicator 7: Patent Boxes ▲

100

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: Unknown

Notes:

- As of November 2020 the United States' patent box regime called "foreign-derived intangible income (FDII)" was still under review of the OECD (OECD HTP 2020), so it is not clear whether it is compliant with the nexus constraints or not.
- However, Delaware's 'Passive Investment Company' regime, also referred to as "Delaware loophole" enables "corporations to set up holding companies in Delaware that the parent company or other subsidiaries then pay for the use of intellectual property. This income is not taxed in Delaware, while the payments can be deducted as a business expense from the parent company's tax liability in its home state. In effect, states where corporations are actually operating can lose millions of dollars in revenue as a result of the Delaware loophole." (itep.org). This loophole allows corporations to abuse the passive investment company regime and to shift their profits outside of the states where the business operates and the revenue is earned (bctv.org). While this IP regime was not reviewed by the OECD harmful tax practices report, no evidence was found for it apply the nexus constraints.

Sources:

- OECD HTP 2020 [↗](#)
- IBFD 2020b; 1.9.6. [↗](#)
- <https://itep.org/delaware-an-onshore-tax-haven/>
- <https://www.bctv.org/2020/02/04/senate-committee-focuses-on-corporate-tax-fairness-targets-delaware-loophole/>

Haven Indicator 8: Fictional Interest Deduction ▲

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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: No

Sources:

- IBFD 2020b [↗](#)

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: No

Notes:

- In 2013 the Global Forum reported that LLCs are not generally required to maintain adequate accounting records (GF 2013: 52). However, in 2018, the Global Forum mentioned that the USA amended its federal tax regulations in 2016 and "Therefore, all single-member foreign-owned LLCs are now subject to federal tax filing requirements, are associated with an EIN [Employer Identification Number] and must maintain accounting records in line with the standard" (GF 2018: 62, [TJN's Note]). The Global Forum further stated that "The United States should monitor the implementation of the new requirements to ensure that accounting records and underlying documentation of all single-member foreign-owned LLCs are available." (Ibid: 60).
- However, the Global Forum reported that in the USA "an express rule requiring the maintenance of underlying documentation for five years was absent [...]. No changes have been made to the relevant federal tax law since the 2011 report. Further, a few concerns regarding the retention of accounting records arose during the period under review. Two peers reported that the requested accounting information was not provided because it was not available any more" (Ibid: 63). The website of the US Internal Revenue Service (IRS) confirms that accounting records must be kept for 3 years, except in specific circumstances in which companies are required to keep records for 6 or 7 years (irs.gov). Given that accounting records don't need to be kept for the minimum period of five years defined for this indicator, we consider the record keeping requirements to be insufficient.

Sources:

- <https://web.archive.org/web/20110816014516/http://www.ocrac.com:80/jurisdictions/usallc.asp?LeftFrameName=18&UseReferer=1&referer=juris>
- GF 2011: 50-51; GF 2013:47-54; GF 2018: 60-64 [↗](#)
- <https://www.irs.gov/businesses/small-businesses-self-employed/how-long-should-i-keep-records>

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

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

Answer: Not applicable

Notes:

- The Global Forum reported that "Accounting information has to be filed with the annual corporate and partnership income tax returns, as well as the annual reporting of transactional information on other tax returns, such as Form 5472." (GF 2018: 64). However, in the absence of sufficient requirements regarding accounting records and underlying documentation (see note on ID [188]), submission of financial statements cannot be ensured.

Sources:

- GF 2011: 50-51; GF 2013: 49; GF 2018: 64 [↗](#)

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: Not applicable

Notes:

- There is no indication that accounts are available online. Each US state has a business registry. A sample check in some US states showed that only basic information is available online. In some states, further details can be obtained subject to fee payment, but it is not clear if accounts are included. In Delaware, for example, basic information can be obtained for free, and additional information can be purchased for 20 USD. It is not clear if accounts are included among the information purchased. Moreover, in the absence of sufficient requirements regarding accounting records and underlying documentation (see note on ID [188]), accounts cannot be publicly available.

Sources:

- <http://web.archive.org/web/20180707091115/https://www.vtsosonline.com/online/BusinessInquire/>
- <https://icis.corp.delaware.gov/Ecorp/EntitySearch/NameSearch.aspx>
- <https://www.jonesday.com/en/insights/2012/10/public-disclosure-requirements-for-private-companies-us-vs-europe>

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

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: No public country-by-country reporting at all.

Notes:

- The USA's Securities Exchange Commission resource extraction disclosure rule Section 13q to implement Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act was effected in September 2016. However, it was repealed by Congress in February 2017, at which point no companies had yet been required to make disclosures under the rule, as the deadline for compliance was for years ending on or after 30 September 2018. The USA also withdrew from the Extractive Industries Transparency Initiative in 2017 (however, being part of the initiative would not result in a reduced secrecy score). As of September 2020, no evidence was found to indicate any change of this legal situation (communication with PWYP UK).

Sources:

- Email communication with PWYP UK 18.8.2020 [↗](#)
- Email communication with Eurodad, 09.09.2020 [↗](#)
- <https://www.sec.gov/rules/final/2016/34-78167.pdf>
- <http://www.mondaq.com/unitedstates/x/573904/Corporate+Governance/Repeal+Of+Resource+Extraction+Disclosure+Rule>
- Extractive Industries Transparency Initiative United States of America [↗](#)

- <https://eiti.org/united-states-of-america>
- Email communication with PWYP International, 19.02.2019 & 05.08.2019 [↗](#)

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:

- The US only requires CBCR filing when the entity's ultimate parent is resident in the US, but not for other cases (OECD CBCR 2018: 736). There is no change (OECD CBCR 2019: 546). This was confirmed in 2020 (OECD CBCR 2020: 412).

Sources:

- <http://www.oecd.org/tax/automatic-exchange/country-specific-information-on-country-by-country-reporting-implementation.htm>
- OECD CBCR 2018 [↗](#)
- 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:

- The USA can issue unilateral cross-border tax rulings. According to the OECD, the rulings include (i) preferential regimes; (ii) cross-border unilateral 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) permanent establishment rulings; and (iv) related party conduit rulings" (OECD UTR 2019: 447).

Sources:

- OECD UTR 2018: 467 [↗](#)
- IBFD 2020b [↗](#)
- OECD UTR 2019: 447 [↗](#)

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: Unknown

Notes:

- While the Customs and Border Patrol website (cbp.gov/trade/rulings) publishes some advance rulings and other legal decisions for free and with names, these deal exclusively with customs and border issues such as country of origin clarifications. No rulings were found that specifically focused on corporate income tax issues. Given that the Corporate Tax Haven Index is concerned with corporate tax and related rulings (and not on VAT and Customs), we do not consider the aforementioned rulings sufficient to consider that cross-border tax rulings are published online in the United States of America. However, given that it is not clear whether other tax rulings are indeed published, we consider the answer for this indicator as 'Unknown'.

Sources:

- <https://www.cbp.gov/trade/rulings>
- <https://rulings.cbp.gov/home>

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: No

Notes:

- The United States of America does not require mining contracts to be disclosed by law (NRGI Policy Tracker 2020).

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: Yes, but only some contracts are available online.

Notes:

- Onshore leases can be viewed on the United States Department of the Interior Bureau of Land Management's Land and Mineral Legacy Rehost 2000 System (LR2000) database (reports.blm.gov). However, there is no indication about whether this represent all or nearly all contracts.

Sources:

- US Department of the Interior, Bureau of Land Management, Land & Minerals System Reports [↗](#)
- <https://reports.blm.gov/reports.cfm?application=LR2000>
- Contract Disclosure Policy and Practice Tracker, Natural Resource Governance Institute 28.07.2020 [↗](#)
- <https://docs.google.com/spreadsheets/d/1FXEeD43jw6VYHV8yS-8KJ5-rR5l0XtKxVQZBWzr-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: No

Notes:

- The United States of America does not require petroleum contracts to be disclosed by law (NRGI Policy Tracker 2020).

Sources:

- Contract Disclosure Policy and Practice Tracker, Natural Resource Governance Institute 28.07.2020 [↗](#)
- <https://docs.google.com/spreadsheets/d/1FXEeD43jw6VYHV8yS-8KJ5-rR5l0XtKxVQZBWzr-ohY/edit#gid=0>

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

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

Answer: Yes, but only some contracts are available online.

Notes:

- The United States publishes offshore leases on the Bureau of Safety and Environment Enforcement website (data.bsee.gov). Onshore leases can be viewed on the US Department of the Interior Bureau of Land Management's Land and Mineral Legacy Rehost 2000 System (LR2000) database (reports.blm.gov). However, there is no indication about whether this represent all or nearly all contracts.

Sources:

- Bureau of Safety and Environment Enforcement website, Scanned Active-Inactive Leases Query [↗](#)
- <https://www.data.bsee.gov/Other/DiscMediaStore/ScanActiveLeases.aspx>
- US Department of the Interior, Bureau of Land Management, Land & Minerals System Reports [↗](#)
- <https://reports.blm.gov/reports.cfm?application=LR2000>
- Contract Disclosure Policy and Practice Tracker, Natural Resource Governance Institute 28.07.2020 [↗](#)
- <https://docs.google.com/spreadsheets/d/1FXEeD43jw6VYHV8yS-8KJ5-rR5l0XtKxVQZBWzr-ohY/edit#gid=9>

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

30

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: Yes, but the schemes are only reported to the tax administration, and are not published.

Notes:

- Both taxpayers and advisors are obliged to disclose 'reportable transactions', which include transactions similar to ones the IRS has identified as a tax avoidance transaction or as a transaction of interest, to identify if it has a tax avoidance purpose (OECD, 2015: 91). This was confirmed by IBFD (2020b).

Sources:

- OECD 2015: 91. [↗](#)
- IBFD 2020b [↗](#)
- Internal Revenue Code (Sections 6011, 6111, 6112, 6707, 6707A, 6662A, and 6708). [↗](#)
- <http://uscode.house.gov/browse/prelim@title26&edition=prelim>

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/marketed (if applicable)?

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

Notes:

- Both taxpayers and advisors are obliged to disclose 'reportable transactions', which include transactions similar to ones the IRS has identified as a tax avoidance transaction or as a transaction of interest, to identify if it has a tax avoidance purpose (OECD, 2015: 91). This was confirmed by IBFD (2020b).

Sources:

- OECD 2015: 91. [↗](#)
- IBFD 2020b, 7.4.2.1. [↗](#)
- Internal Revenue Code (Sections 6011, 6111, 6112, 6707, 6707A, 6662A, and 6708). [↗](#)
- <http://uscode.house.gov/browse/prelim@title26&edition=prelim>
- <https://www.irs.gov/compliance/criminal-investigation/overview-abusive-tax-schemes>

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

Notes:

- Since 2010, the IRS requires firms to report Uncertain Tax Positions (UTP) in their corporate tax returns: "Corporations [...] must file Schedule UTP if total assets equal or exceed the applicable asset threshold for the tax year and the corporation reserved for a tax position in audited financial statements" (irs.gov).

Sources:

- <https://www.irs.gov/businesses/corporations/uncertain-tax-positions-schedule-utp>
- 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.

Notes:

- Since 2010, the IRS requires firms, but not tax advisers, to report Uncertain Tax Positions (UTP) in their corporate tax returns: "Corporations [...] must file Schedule UTP if total assets equal or exceed the applicable asset threshold for the tax year and the corporation reserved for a tax position in audited financial statements" (irs.gov).

Sources:

- OECD 2016: 24 [↗](#)
- <https://www.irs.gov/businesses/corporations/uncertain-tax-positions-schedule-utp>

Haven Indicator 14: Tax Court Transparency [▲](#)

50

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: Cost/Anonym: Yes, full text of verdicts is always online but only at a cost of up to 10 €/US\$/GBP, or it is always available for free but in anonymised form.

Notes:

- US Courts' decisions are available at the Public Access to Court Electronic Records (PACER), which "provides electronic public access to federal court records. PACER provides the public with instantaneous access to more than 1 billion documents filed at all federal courts" (<https://www.pacer.gov/>). However, the information is not available for free: "Access to case information costs \$0.10 per page. [...] The cost to access a single document is capped at \$3.00, the equivalent of 30 pages for documents and case-specific reports like docket report, creditor listing, and claims register" (<https://www.pacer.gov/>).

Sources:

- <https://www.pacer.gov/>

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: Cost/Anonym: Yes, full text of verdicts is always online but only at a cost of up to 10€/US\$/GBP, or it is always available for free but in anonymised form..

Notes:

- US Courts' decisions are available at the Public Access to Court Electronic Records (PACER), which "provides electronic public access to federal court records. PACER provides the public with instantaneous access to more than 1 billion documents filed at all federal courts" (<https://www.pacer.gov/>). However, the information is not available for free: "Access to case information costs \$0.10 per page. [...] The cost to access a single document is capped at \$3.00, the equivalent of 30 pages for documents and case-specific reports like docket report, creditor listing, and claims register" (<https://www.pacer.gov/>).

Sources:

- <https://www.pacer.gov/>

ANTI-AVOIDANCE

Haven Indicator 15: Deduction Limitation of Interest Payments [▲](#)

75

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: YES, RESTRICTED LAX: Deduction limitation only for payments worth 30% EBITDA or above, and/or any other interest deduction limitation method using a fixed ratio rule.

Notes:

- The U.S. Tax Cuts and Jobs Act of 2017 (TCJA) has abolished existing earnings stripping rules that disallowed deductions on intra-group interest payments to the extent that the corporation's debt-equity ratio exceeded 1.5 to 1 and introduced 30 per cent EBITDA-based limitation rule for interest payments to related as well as unrelated parties. The U.S. will start to implement the 30 per cent EBIT-based limitation rule as of 1 January 2022 which is more strict than EBITDA-based limitation rule (IBFD 2020b: 1.4.5.1). Moreover, the TCJA has also created another fixed-ratio rule by disallowing deduction of interest payments above a certain threshold (Morse 2018: 379). It has introduced the base erosion and anti-abuse tax (BEAT). The BEAT is a minimum tax that equals to 10 per cent of the taxpayer's "modified taxable income" (5 per cent for

2018; 12.5 per cent after 2025), less a portion of some tax credits. It imposes on corporations having average annual gross receipts of \$500,000,000 for the prior three-year period; and a base erosion percentage of at least 3 per cent that means a threshold of base erosion payments as a percentage of total deductions (Kysar 2018: 358). Since interest payments are deductible from corporate tax base i.e. base erosion payments, the BEAT also limits intra-group interest payments of U.S. firms (Baker McKenzie: 17-18).

Sources:

- https://www.bakermckenzie.com/-/media/files/insight/publications/2018/02/nl_na_taxnewsdevelopmentv2_feb2018.pdf?la=en
- Morse 2018 [↗](#)
- http://www.roedl.net/us/tax_reform/key_business_tax_provisions/base_erosion_and_anti_abuse_tax_beat.html
- Kysar 2018 [↗](#)

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: NO, group ratio rule opt-in is not applied.

Notes:

- The US does not opt-in a group ratio rule (bakermckenzie.com).

Sources:

- https://www.bakermckenzie.com/-/media/files/insight/publications/2018/02/nl_na_taxnewsdevelopmentv2_feb2018.pdf?la=en

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: NO, financial undertaking exclusion is not applied.

Notes:

- The US does not opt-in financial undertakings exclusion. But the BEAT rate is one percentage point higher for banks and registered securities dealers (bakermckenzie.com).

Sources:

- https://www.bakermckenzie.com/-/media/files/insight/publications/2018/02/nl_na_taxnewsdevelopmentv2_feb2018.pdf?la=en

Haven Indicator 16: Deduction Limitation of Royalty Payments ▲

50

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: YES, RESTRICTED TIGHT: Deduction limitation/disallowance applies with respect to certain intra-group royalty payments irrespective of countries complying with OECD NEXUS rules.

Notes:

- The U.S. Tax Cuts and Jobs Act of 2017 has introduced the base erosion and anti-abuse tax (BEAT). The BEAT is a minimum tax that equals to 10% of the taxpayer's "modified taxable income" (5% for 2018; 12.5% after 2025), less a portion of some tax credits. The minimum tax is imposed on corporations having average annual gross receipts of \$500,000,000 for the prior three-year period; and a base erosion percentage of at least 3%, which means a threshold of base erosion payments as a percentage of total deductions (Kysar, p. 358). Given that royalty payments are deductible from corporate tax base i.e. base erosion payments, the BEAT also limits intra-group royalty payments of U.S. firms (Baker McKenzie, p. 17-18; IBFD 2020b: 10.6.2).

Sources:

- https://www.bakermckenzie.com/-/media/files/insight/publications/2018/02/nl_na_taxnewsdevelopmentv2_feb2018.pdf?la=en
- https://www.yalelawjournal.org/pdf/Kysar_su38oca6.pdf
- IBFD 2020b [↗](#)

Haven Indicator 17: Deduction Limitation of Service Payments ▲

0

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: Yes, there are specific restrictions or deduction limitations on outbound service payments.

Notes:

- The U.S. Tax Cuts and Jobs Act of 2017 has introduced the base erosion and anti-abuse tax (BEAT). The BEAT is a minimum tax that equals to 10% of the taxpayer's "modified taxable income" (5% for 2018; 12.5% after 2025), less a portion of some tax credits. It imposes on corporations having average annual gross receipts of \$500,000,000 for the prior three-year period; and a base erosion percentage of at least 3% that means a threshold of base erosion payments as a percentage of total deductions (Kysar 2018: 358). Since service payments are deductible from corporate tax base i.e. base erosion payments, the BEAT also limits intra-group service payments of U.S. firms (Baker McKenzie, p. 17-18; IBFD 2020b: 10.6.2).

Sources:

- IBFD 2020b [↗](#)
- https://www.bakermckenzie.com/-/media/files/insight/publications/2018/02/nl_na_taxnewsdevelopmentv2_feb2018.pdf?la=en
- Kysar 2018 [↗](#)

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: 30 %

Notes:

- The US levies a 30 per cent withholding tax on dividend payments by the US resident subsidiaries to non-resident parent companies (IBFD 2020b: 7.3.4.1).

Sources:

- [IBFD 2020b](#)

Haven Indicator 19: Controlled Foreign Company Rules ▲

0

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: YES, NON-TRANSACTIONAL: Yes, there are non-transactional CFC rules.

Notes:

- In 1962, the US became the first country in the world to introduce CFC rules. These are non-transactional type of CFC rules (see, IBFD 2020b: 10.4). However, there are exemptions to the CFC rules and the check-the-box regime that "effectively disables the CFC regime to a large extent by deeming intra-group transactions as non-existent", that make them ineffective in practice (Ting 2014: 50 ff.). Recently, however, a "super subpart F" rule called GILTI ("global intangible low-taxed income") was added to the Internal Revenue Code. While GILTI is supposed to target CFC's intangible income, the rule's effective scope is broader and subjects excess profits (broadly speaking above 10% return over tangible assets) of any CFCs to US tax (jdsupra.com). These provisions using a much more formulaic approach appear to be comparable to non-transactional CFC rules and they are expected to capture most foreign subsidiary income not caught by the existing anti-deferral rules (taxfoundation).

Sources:

- [IBFD 2020b](#)
- [Ting 2014](#)
- <https://taxfoundation.org/treatment-foreign-profits-tax-cuts-jobs-act/>
- <https://www.jdsupra.com/legalnews/the-gilTI-rules-a-comprehensive-q-a-on-87436/>

DOUBLE TAX TREATY AGGRESSIVENESS

Haven Indicator 20: Treaty Aggressiveness ▲

45

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: 44.9675265893581

Global Scale Weight breakdown



12%

Inward foreign direct investment (US\$)

\$ 5,301,088,159,254

Outward foreign direct investment (US\$)

\$ 6,403,286,666,865

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

\$ 11,704,374,826,119

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)

12.4%