

Belgium

0	Page	General
1	15	Inbound payments
1.1	15	
1.2	15	<p>Board of directors meetings must be held in Belgium and that the management decisions are taken there.</p> <p>Under Company law Belgium applies the statutory seat theory since the company law reform. Under company law the place of management is no longer decisive. Fiscal law is different. The fiscal definition of a resident company is included in article 2(5)(b) of the Income Tax Code and our chapter analysis Belgium Corporate the fiscal residence is defined as it has its legal seat, main establishment or place of effective management in Belgium.</p> <p>Thereafter, I went to the database of the Belgian Ministry of Finance (fisconetplus https://financien.belgium.be/nl/fisconetplus) which in the paragraphs 21-27 of commentary to article 179 of the Income Tax Code describes when a company is considered to be a fiscal resident of Belgium.</p> <p>Par. 22 of the commentary indicates that the registered office of the company is located where the management of the affairs is concentrated, from where the income generating impulse starts and the higher control is exercised and where the general meetings of the shareholders or partners are usually held.</p> <p>Par. 23 of that commentary clarifies that for the determination where the main establishment of a company is located it is important to determine where the seat of general management is located (where the main management - and management bodies are united, i.e. the offices of the management, of the commercial division are located and where the central accounts and the archives are kept), where the general meetings of the shareholders or partners are held, where ultimately the senior management, the social management and the general interests are observed and looked after.</p> <p>Based on this commentary we conclude that for the fiscal residence it is still relevant that the main management decisions are taken in Belgium.</p>
1.3	15	
2	15	Income flows
2.1	15	
2.2	15	
3	16	Outbound payments
3.1	16	
3.2	16	
4	16	Source taxes
4.1	16	
4.2	16	
4.3	16	

4.4	16	
5	16	Participation exemption
5.1	16	
5.2	16	
5.3	17	Low tax jurisdictions are countries with a nominal or effective tax rate below 15%.
		Any changes expected in the near future (i.e. up to and including 2022)
3	18	Outbound payments
3.1	18	Measures outbound payments “18.05.201” should be “18.05.2021”.
		Future developments are under discussion. However, no plans for the introduction of new measures on any of those have been released.

Cyprus

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1	19	Inbound payments
1.1	19	
1.2	19	
1.3	19	
2	19	Income flows
2.1	19	<p>Please note that there is a legal framework in place where Companies may obtain advance rulings/certainty in advance as regards taxable profit, namely Circular 2015/13 issued by the Tax Department as amended through Decree 130/2016. The said Circular provides that the Tax Rulings Division of the tax department will, on application by or on behalf of a taxpayer, issue advance tax rulings regarding actual transactions (including a series of transactions) relating to tax years for which the due date for filing a tax return has not yet passed, and transactions proposed to be undertaken by existing or new entities.</p> <p>Rulings will be binding only with regard to the taxpayers specifically mentioned in the ruling request, and only to the extent that the facts and circumstances presented in the ruling request continue to be applicable and provided that there is no subsequent change in the tax law which renders the ruling inapplicable. The Tax Rulings Division will express an opinion on the applicable tax treatment of the hypothetical/future transaction or scenario presented to it and will not be responsible for verifying the facts presented by the applicant.</p> <p>In the event of any discrepancy subsequently emerging between the scenario presented in a tax ruling request and the actual transactions undertaken, the relevant District Tax Office may decline to apply the tax ruling, or inform the Tax Rulings Division of the actual facts, asking it to confirm or modify the initial ruling. The tax department reserves the right to set aside or modify a tax ruling that was issued based on an incorrect understanding of the facts presented. However, before doing so, it will take into consideration all potential consequences to the taxpayer resulting from any actions that took place after the issuance of the tax ruling, in line with the principles of good administration.</p>
2.2	19	
3	19	Outbound payments
3.1	19	
3.2	20	
4	20	Source taxes
4.1	20	
4.2	20	
4.3	20	
4.4	20	
5	20	Participation exemption

5.1	20	
5.2	20	
5.3	20	
		Any changes expected in the near future (i.e. up to and including 2022)
1	21	Inbound payments
1.1	21	
1.2	21	
1.3	21	
2	21	Income flows
2.1	21	
2.2	21	
4	22	Source Taxes
4.1	22	
4.2	22	
4.3	22	
4.4	22	

Germany

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1	23	Inbound payments
1.1	23	
1.2	23	
1.3	23	
2	23	Income flows
2.1	23	
2.2	23	
3	23	Outbound payments
3.1	23	It is mentioned that section 50d is supposed to be amended and brought in line with EU law and that a new law shall be implemented. These legal changes took place recently. The bills that include these changes entered into force in the beginning of July. However, the changes are partially only applicable as from 1 January 2022.
3.2	23	
4	23	Source taxes
4.1	23	
4.2	23	
4.3	24	
4.4	24	See comment under 3.1.
5	24	Participation exemption
5.1	24	
5.2	24	
5.3	24	
		Any changes expected in the near future (i.e. up to and including 2022)
3	25	Outbound payments
3.1	25	
4	25	Source taxes
4.4	25	
5	25	Participation exemption
5.3	25	

Ireland

0	Page	General
1	26	Inbound payments
1.1	26	<p>Correct, but please note the following clarification. A company is considered tax resident in Ireland if:</p> <ul style="list-style-type: none"> • It is incorporated in Ireland and none of the exemptions apply: (i) <i>Treaty exemption</i>: company is regarded as resident in another jurisdiction under a Double Tax Treaty and not resident in Ireland under such treaty (<i>mentioned by PwC</i>), or (ii) the <i>Trading Exemption</i>: if an Irish incorporated company is a 'relevant company'¹ and it carries on a trade in Ireland or is related to a company that carries on a trade in Ireland, then the residence of the company is determined by the location of the central management and control; or • Its central management and control is in Ireland. <p>"Stateless company": If a company is incorporated in Ireland and trading exemption applies, but the company is not managed and controlled in Ireland nor is considered as tax resident in another EU/DTA country then the company reverts to being the Irish tax resident if:</p> <ol style="list-style-type: none"> 1. The company is managed and controlled in a relevant territory (EU or DTA country) and if it was managed and controlled to the same extent in Ireland it would have been resident here, 2. That relevant country only has a place of incorporation test and not a central management and control test.
1.2	26	Correct, however see above regarding trading exemption.
1.3	27	
2	27	Income flows
2.1	27	<p>Correct in respect of the tax rulings however, It is possible for entities to obtain an Advance Pricing Agreement (APA) from tax authorities to agree the appropriate transfer pricing methodology to be applied to complex intra-group transactions. APAs are requested and made available through the MAP process. They apply to future transactions.</p> <p>Up until June 2016, Ireland had an informal bilateral APA programme. However, in June 2016, Ireland formally introduced its bilateral APA programme with the publication of guidelines relating to the topic (Tax and Duty Manual 35-02-07: Bilateral Advance Pricing Agreement Guidelines). The guidelines are effective for APAs requested from 1 July 2016.</p>
2.2	27	See comment in 2.1.

¹ "Relevant company" is a company:

- which is under the direct or indirect control of persons who are resident in an EU Member State or state with which Ireland has a double tax treaty and is not under the control of persons who are not so resident; or
- which is, or is related to, a company quoted on a stock exchange in an EU Member State or country with which Ireland has a double tax treaty

3	27	Outbound payments
3.1	27	<p>There are no substance requirements directly defined/listed in the Irish tax legislation.</p> <p>However, the following anti-avoidance rules must be considered in the context of the Parent-Subsidiary (PS) and Interest and Royalties (IR) Directives:</p> <ul style="list-style-type: none"> • s831(6) TCA 1997 does not permit Irish companies to pay dividends free from dividend withholding tax (DWT) under PS Directive where the majority of the voting rights in the EU resident parent company are controlled directly or indirectly by persons not resident in the EU or a DTA country unless it can be shown that the parent company exists for bona fide commercial reasons and does not form part of any arrangement or scheme of which the main purpose, or one of the main purposes is the avoidance of liability to income tax, including DWT (s831(6) TCA 1997). • Furthermore, s831(7) TCA 1997 aims at preventing the benefits of the EU PS from applying to arrangements that are not “genuine” (i.e. that have been put in place to obtain a tax advantage without reflecting economic reality). Such arrangements will be regarded as not genuine unless it can be demonstrated that there are valid commercial reasons for the arrangements which reflect economic reality. <p>However, it should be noted that if exemption from WHT does not apply under PS Directive, domestic WHT may still apply.</p> <p>Similarly, for interest payments relief under the IR Directive will also not be available unless it can be shown that the payments were made for bona fide commercial reasons and not under an arrangement the purpose or one of the main purposes of which is the avoidance of tax (s267K(1) TCA 1997).</p>
3.2	28	See above comment on 3.1
4	28	Source taxes
4.1	28	
4.2	28	
4.3	28	
4.4	29	
5	29	Participation exemption
5.1	29	
5.2	29	
5.3	29	
Any changes expected in the near future (i.e. up to and including 2022)		
4	30	Source taxes
4.3	30	
4.4	30	
5	30	Participation exemption



5.1	30	
5.2	30	
5.3	30	

Jersey

0	Page	General Correct, no additional comments
1	31	Inbound payments
1.1	31	
1.2	31	
1.3	33	
2	33	Income flows
2.1	33	
2.2	34	
3	34	Outbound payments
3.1	34	
3.2	34	
4	34	Source taxes
4.1	34	
4.2	34	
4.3	34	
4.4	34	
5	34	Participation exemption
5.1	34	
5.2	34	
5.3	34	
Any changes expected in the near future (i.e. up to and including 2022)		
1	35	Inbound payments
1.1	35	
1.2	35	
4	35	Source taxes
4.4	35	

Luxembourg

0	Page	General
1	36	Inbound payments
1.1	36	
1.2	36	
1.3	36	
2	36	Income flows
2.1	36	
2.2	36	The Circular also mentions that the majority of the managers must be resident in Luxembourg and that there must be enough qualified personnel.
3	36	Outbound payments
3.1	36	Non-EU companies can be replaced by non-EU/EEA and Switzerland companies. The subject to tax test is deemed to be met if the foreign company is subject to corporate income tax at a rate of 8.5% which is levied on a comparable base.
3.2	36	
4	36	Source taxes
4.1	36	Income from profit-sharing bonds is classified as dividends and subject to a 15% withholding tax.
4.2	36	
4.3	36	
4.4	37	
5	37	Participation exemption
5.1	37	
5.2	37	
5.3	37	
		Any changes expected in the near future (i.e. up to and including 2022)
2	38	Income flows
2.2	38	
3	38	Outbound payments
3.1	38	
3.2	38	
4	38	Source taxes
4.4	38	
5	38	Participation exemption



5.3	38	
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Malta

0	Page	General Correct, no additional comments
1	39	Inbound payments
1.1	39	
1.2	39	
1.3	39	
2	39	Income flows
2.1	39	
2.2	39	
3	39	Outbound payments
3.1	39	
3.2	39	
4	40	Source taxes
4.1	40	
4.2	40	
4.3	40	
4.4	40	
5	40	Participation exemption
5.1	40	
5.2	40	
5.3	40	
Any changes expected in the near future (i.e. up to and including 2022)		
2	41	Income flows
2.1	41	
2.2	41	
5	41	Participation exemption
5.3	41	

Netherlands

0	Page	General
1	42	Inbound payments
1.1	42	
1.2	42	
1.3	42	General remark information on rulings in the Netherlands is included under question 1.3 and 2.2. It belongs under 2.2.
2	42	Income flows
2.1	42	
2.2	42	
3	43	Outbound payments
3.1	43	Second sentence EU country should be EU/EEA country.
3.2	44	
4	44	Source taxes
4.1	44	Income from profit-sharing bonds is classified as dividends and subject to a 15% withholding tax.
4.2	44	
4.3	44	
4.4	44	
5	44	Participation exemption
5.1	44	
5.2	44	
5.3	45	
		Any changes expected in the near future (i.e. up to and including 2022)
3	46	Outbound payments
3.1	46	
4	46	Source taxes
4.3	46	
5	46	Participation exemption
5.3	46	
		Future developments are under discussion. However, no plans for the introduction of new measures on any of those have been released.

Singapore

0	Page	General
1	47	Inbound payments
1.1	47	We think it should say after discussing C&M test that generally whilst there is no statutory seat legislation, Singapore-incorporated companies are presumed to be resident, unless it can be demonstrated that C&M is outside Singapore, while non-Singapore incorporated companies will only be resident if C&M is clearly met. In applying the C&M test in the latter situation, IRAS generally requires that conditions listed in 1.2 are met in addition to C&M in Singapore, especially for non-Singapore incorporated companies that are owned by non-residents.
1.2	47	
1.3	48	Again, if a company passed the tests in 1.1, it can obtain a residence certificate.
2	48	Income flows
2.1	48	Private rulings are available, but they would probably be on a specific set of facts and changes to those facts will most likely impact the validity of the advanced ruling. A higher certainty could be achieved if the company is able to avail itself to one of the exemption regimes (e.g. s13R).
2.2	48	For TP: Yes. Outside of TP: No, but there may be other conditions. In the summary table attached at the end, the last sentence has been repeated twice
3	48	Outbound payments
3.1	48	If there is no withholding tax (e.g. dividends), then no. If there is withholding tax (interest), generally, a residence certificate of the recipient will be required to access the treaty rate.
3.2	48	If it is withholding tax, then no treaty access. For TP - adjustments and penalties on the adjustment itself (e.g. not on additional tax liability).
4	49	Source taxes
4.1	49	
4.2	49	
4.3	49	
4.4	49	
5	49	Participation exemption
5.1	49	
5.2	49	
5.3	50	
		Any changes expected in the near future (i.e. up to and including 2022)
5	51	Participation exemption
5.1	51	

Switzerland

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1	52	Inbound payments
1.1	52	
1.2	52	
1.3	52	
2	52	Income flows
2.1	52	
2.2	53	
3	53	Outbound payments
3.1	53	
3.2	53	We suggest to add "... and in principle no refund of 35% WHT will be granted."
4	53	Source taxes
4.1	53	
4.2	53	
4.3	53	
4.4	53	
5	54	Participation exemption
5.1	54	
5.2	54	
5.3	54	
		Any changes expected in the near future (i.e. up to and including 2022)
	55	

United Kingdom

0	Page	General
	10	Please note that interest paid on Eurobonds is exempt from UK interest withholding (WHT) tax (see: https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm35218).
1	56	Inbound payments
1.1	56	
1.2	56	
1.3	56	
2	56	Income flows
2.1	56	
2.2	56	
3	56	Outbound payments
3.1	56	
3.2	57	
4	57	Source taxes
4.1	57	
4.2	57	
4.3	57	
4.4	57	
5	57	Participation exemption
5.1	57	
5.2	57	
5.3	57	We suggest to amend as follows: "Yes. As noted above, the SSE broadly exempts gains arising on the disposal of trading entities or subgroups where >10% of the shares have been held for a continuous period of 12 months within a 6-year period before the date of disposal for disposals made on or after 1 April 2017 or within a 2-year period for disposals made before 1 April 2017. [...] According to guidance issued by the UK tax authorities, a company or group is not considered to be 'trading' for these purposes if more than 20% of its activities is non-trading in nature."
		Any changes expected in the near future (i.e. up to and including 2022)
4	58	Source taxes
4.1	58	