

International tax environment

For many years, international tax policy has been focused on avoiding cross-border double taxation (for example, the **OECD Model Tax Convention** and the European Union (EU) **directive on dividend taxation of parent companies and subsidiaries of different Member States**).

At the initiative of the G20 and under the leadership of the OECD, a fundamental change in the way of thinking took place in 2013, when the **international project against Base Erosion and Profit Shifting (BEPS)** was launched, to which more than 135 countries and jurisdictions have joined.

The first change carrying an international approach took place in the referenced EU parent and subsidiary company directive, to which a general anti-abuse provision was added in 2015. According to this, Member States will not grant the benefits of the Directive to an arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or purpose of the Directive, are not genuine having regard to all relevant facts and circumstances. In Estonia, this amendment was adopted in 2016 by supplementing § 50 of the Income Tax Act with **subsection 1⁴**.

In 2016, the EU agreed on the **Anti-Tax Avoidance Directive (ATAD)**, the **Article 6** of which extended the general anti-abuse provision from dividends to all aspects of corporate income tax. According to this, a Member State will ignore an arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or purpose of the applicable tax law, are not genuine having regard to all relevant facts and circumstances. Estonia had the obligation to adopt the said provision into domestic law by the end of 2018.

In 2016, the OECD agreed on a **Multilateral Instrument (MLI)** to implement tax treaty related measures, which extends the general anti-abuse provision to all taxes and taxpayers covered by tax treaties. According to this, a benefit under a tax treaty shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit. Estonia has signed the MLI and its ratification took place in 2019.

In summary, since the launch of the BEPS project in 2013, all international attention has been focused from avoiding double taxation to paying taxes – fewer and fewer ways to optimize taxes are considered legal, and the limits of legal tax optimization are becoming narrower and narrower, more emphasis is placed on achieving all kinds of tax advantages, not just on not paying taxes.

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