2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Dear Platform Members,

As per the minutes of our last Platform Meeting, it has been agreed to ask member states to fill in the questionnaire included in the Discussion Paper circulated for the meeting. As discussed, in order to ensure consistency and transparency, some key issues need to be taken into consideration:

a) Dynamic interpretation,
b) Methodology, and
c) Periodicity of the update.

During the meeting, it was also agreed to expand the questionnaire.

Accordingly, in its letter of 2 July 2014, the Commission has added two questions (5 and 6) to the draft questionnaire. We welcome this decision but would suggest including further questions which you will find below under bullet point 2 (questions 7-11).
We have asked our Fiscal Committee to provide answers to the Commission´s questionnaire and to the suggested additional questions 7-11. Please find below the responses received from 10 CFE countries.
We will be pleased to answer any questions you may have concerning our additional questions and responses given. For further information, please contact Piergiorgio Valente, Chairman of the CFE Fiscal Committee or Rudolf Reibel, CFE Fiscal and Professional Affairs Officer, at brusselsoffice@cfe-eutax.org .

Best regards,

Piergiorgio Valente
CFE representative to the Platform for Tax Good Governance

The CFE (Confédération Fiscale Européenne) is the umbrella organisation representing the tax profession in Europe.
Our members are 32 professional organisations from 25 European countries (22 EU member states) with 180,000 individual members. Our functions are to safeguard the professional interests of tax advisers, to assure the quality of tax services provided by tax advisers, to exchange information about national tax laws and professional law and to contribute to the coordination of tax law in Europe.
CFE is registered in the EU Transparency Register (no. 3543183647-05).

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Annex 1: Questionnaire for Member States

(*Discussion paper on possible outputs of the Commission Recommendation regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters)*

1. Current list of Questions

1) *Does your MS use the following criteria in identifying non-cooperative tax jurisdictions or tax havens?*
   - *Effective compliance with transparency and exchange of information standards (point 3a of the Recommendation C(2012) 8805) ;*
   - *Absence of harmful tax measures in the area of business taxation (point 3b of the Recommendation C(2012) 8805)*
2) *Does your MS use additional criteria? If yes, could you please list and explain these additional criteria.*
3) *Which countries are on the list(s)? Is the list publicly available (please indicate the link)*
4) *How is the list updated?*
   - *Process put in place to review the list*
   - *Periodicity of the update.*
   - *Which legal/regulatory/administrative provision is used to update the list and put it into force?*
5) For which purpose is the list established?
6) Measures applied to listed countries (please describe and indicate conditions, if any)

2. New Questions that we suggest including:

7) Which is the rationale used by your MS in drafting such blacklist? Is there a specific formal procedure to be followed (objectively justified)?
8) From a tax policy perspective, do you monitor and take into consideration other EU MS' blacklist updates for the purpose of updating your own blacklist?
9) Does your MS spontaneously exchange relevant information with the other Member State regarding cross-border rulings (which may be relevant/have impact for the tax authorities of another Member State), in accordance with the provisions of the Directive on Mutual Assistance?
10) Beneath which rates does your MS consider that an effective level of taxation is considerably lower than the general level of taxation in your country?
11) Does your MS have in place a regular review process on administrative practices (e.g., Tax Rulings)?

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Annex 2: Answers by the CFE Fiscal Committee:

Czech Republic: The Czech Republic does not have any public black, white or grey lists. The Czech Republic introduced 35% WHT for Czech source income in case that payment is being made to a country where no DTT or TIEA is in place. It turned out that this legislation is very difficult to administer in practice. Therefore the Czech authorities issued a non-binding information that for example for the EU citizens there is no need to provide a tax residency certificate if they are receiving Czech source income (e.g. interest or dividends).

Switzerland has no special Black- or White List and no respective measures.

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
1. Does your MS use the following criteria in identifying non-cooperative tax jurisdictions or tax havens? ▪ **Effective compliance with transparency and exchange of information standards (point 3a of the Recommendation C(2012) 8805);** ▪ **Absence of harmful tax measures in the area of business taxation(point 3b of the Recommendation C(2012) 8805)**	No.	Yes.	N/A as Ireland does not separately identify non-cooperative tax jurisdictions or tax havens in our tax legislation	No.	No	Yes.	No. However, the existence of an international agreement on exchange of information on tax matters is one of the criteria for inclusion o a country on a so-called "While List" (see further below).	No.	No	No.
	No.	No.	N/A	No.	No	No.	No.	No.	No	No.
2. Does your MS use additional criteria? If yes, could you please list and explain these additional criteria.	Belgium uses two criteria to establish which countries are considered tax havens: Art. 307, § 1 al. 4, b) Belgian Income Tax Code (BITC) considers as tax havens countries where the nominal corporate income tax is less than 10 %. In application of this article a	A Non Cooperative State or Territory (NCST) is defined as follows (the conditions, set forth in CGI article 238-0 A, are cumulative): • It does not belong to the EU;	Ireland does not separately identify countries as being non-cooperative tax jurisdictio	Anti-avoidance measures were introduced with Law 244/2007. The previous blacklist approach was switched to a system based on white lists (positive approach). This provision introduced in 2007	Please see the anti-abuse measures included in Dutch tax law below.	We are not aware of any additional criteria, other than transparency and exchange of information, used by	Slovakia does NOT have any "black list" of countries which shall be identified as non-cooperative tax jurisdictions or tax havens. However, according to Section 2 (x) of the Income Tax Act No.	No.	Spain does NOT use additional criteria, other than transparency and exchange of information, to qualify states as NCJ or tax havens. However, a different criteria is used when	Ukraine has "black list" of countries which shall be identified as tax havens – the list of offshore zones established by the Cabinet of Ministers of Ukraine.

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
	list of states considered as tax havens is inserted in art. 179 of the Royal Decree of the BITC (RD BITC). Next to this list, art. 307 §1, al. 4 a) BITC establishes that states considered as non-compliant by the OECD Global forum on transparency and exchange of information during a whole fiscal year are also considered tax havens. Separate lists that use different criteria exist for the application of the participation exemption in Belgium. List of countries were all the companies are not subject to corporate income tax. (list by the tax administration in 1991) List of countries were specific companies are not subject to corporate income tax. (list by the tax administration in 1991) Both lists are still in the commentary of the tax administration but as they have never been updated their practical value is very limited. List of countries were the normal corporate income tax system is considered to be notably more advantageous than the Belgian corporate income tax. Two criteria: Nominal tax rate is less than 15 %; Effective tax rate is less than 15 %; Companies established in the EU countries are by law considered to be subject to a normal tax regime. (cf. Art. 203, § 1, 1° and 203, § 1, 2nd al	• It has been examined by the OECD as regards its situation with respect to transparency and exchange of information for tax purposes; • It has not concluded with France, as of 1 January 2010, an administrative assistance convention allowing the exchange of any information that is necessary for the application of the tax legislation of the parties; • It has not signed with at least 12 states or territories an administrative assistance convention allowing the exchange of any information that is necessary for the application of the tax legislation of the parties.	ns or tax havens in our tax legislation. Instead, certain tax benefits and reliefs are restricted to businesses operating in, or owned by persons, located in the EU or in countries with which Ireland has a Double Tax Agreement (DTA) or a Tax Information Exchange Agreement (TIEA).	includes the criteria for the identification of white list countries (i.e. countries not included in the white list are black list countries). However, the Ministerial Decree that identifies the white list countries has not been issued yet. The criteria for the determination of Preferential Tax Regimes territories and states are defined in article 168- *bis* of the Italian TUIR.		Romanian tax authorities to qualify states as NCJ or tax havens.	595/2003 Coll. as amended (the "**Income Tax Act**") the Ministry of Finance of the Slovak Republic (the "**Ministry**") shall publish a list of the states which have concluded with the Slovak Republic an international convention on the avoidance of double taxation, an international agreement on exchange of information on tax matters, and states which are parties to the multilateral convention containing provisions on exchange of information on tax matters (the "**White List**"). Defensive measures (see section 5 below) apply to entities/individuals not having registered seat/permanent residence in a White List state (the "**No-Contract State Resident**").		defining the concept of 'Jurisdiction with nil taxation' in Law 36/2006 that approves measures to prevent the tax fraud, describing, jurisdictions that do not apply a similar or analogous tax to the Spanish Personal Income Tax, Corporate Income tax or Non Resident Income Tax. A similar or analogous tax is a tax whose main purpose is the taxation of the income.	For TP purposes the Cabinet of Ministers of Ukraine issued the list of countries that are considered low-tax regimes. For more details refer to section 10.

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
	BITC). This list was introduced by Royal Decree of 13/02/2003 and inserted in art. 73/4quater RD BITC. Although it was announced that the list would be updated regularly so far only limited updates have taken place (deletion of Estonia and San Marino). An updated (and much shorter) list circulated in 2010 (and later in 2013), but the government could not reach agreement on it. Important is that the taxpayer has the possibility to prove that the list is not valid (anymore) and that the nominal or effective tax rate is 15 % or higher.									
3. Which countries are on the list(s)? Is the list publicly available (please indicate the link)	The list of art. 307is available in article 179 RD BITC List: 1 Abu Dhabi (UAE) 2 Ajman (UAE) 3 Andorra 4 Anguilla 5 Bahamas 6 Bahrain 7 Bermudas 8 Iles Vierges Britanniques 9 Iles Cayman 10 Dubai (UAE) 11 Fujairah (UAE) 12 Guernsey 13 Jersey 14 Jethou 15 Maldives 16 Ile de Man 17 Micronesia (Federation of) 18 Moldavia 19 Monaco	On 1 January 2014, the list is the following: Botswana, British Virgin Islands, Brunei, Guatemala, Marshall Islands, Montserrat, Nauru and Niue. The list is public: Ministerial Decision of 17 January 2014 (Official Gazette of Jan. 19, 2014, p. 1023).	N/A	Further information available here: Ministerial Decree of 23 January 2002 (link) provides the list for those countries where no deductibility of costs applies. "The list is divided into three sections. The first section contains the countries and territories regarded as having a privileged tax regime under any circumstance (Andorra, Anguilla, Aruba, Bahamas, Barbados, Barbuda, Belize, Bermuda, British Virgin Isl., Brunei, Cayman Isl., Channel Isl., Cook Isl., Djibouti, French	N/A	To our knowledge there is no official list of NCJ or blacklisted jurisdictions. However, the Romanian tax authorities have published a list of jurisdictions with which Romania has concluded Exchange of Information agreements or Double Taxation	The White List is maintained by the Ministry and is publicly available on its web site (http://www.finance.gov.sk/en/Default.aspx?CatID=685). Currently, only countries that have concluded an international convention on the avoidance of double taxation with the Slovak Republic are on the list. As of 1 January 2015 a Convention on Mutual Administrative Assistance in Tax Matters concluded between the OECD member states is to	Bahamas Barbados Belize Brunei Dominican Republic Costa Rica Liberia Liechtenstein Maldives Marshall Islands Mauritius Oman Panama Saint Kitts and Nevis Saint Vincent and Grenadines Samoa Seychelles Uruguay Vanuatu.	https://www.boe.es/buscar/doc.php?id=BOE-A-1991-18119 Royal Decree 1080/91 lists the countries considered tax havens for Spanish tax purposes. Since 1991 some of these countries have signed exchange of information agreements or Double Taxation Treaties with Spain, therefore they are no longer considered tax havens for Spanish tax purposes. Updated lists are provided for example in Income Tax/ Corporate Tax	Ukraine has "black list" of countries which shall be identified as tax havens – the list of offshore zones established by the Cabinet of Ministers of Ukraine. For TP purposes the Cabinet of Ministers of Ukraine issued the list of countries that are considered low-tax regimes. For more details refer to section 10.

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
	20 Montenegro 21 Nauru 22 Palau 23 Ras al Khaimah (UAE) 24 Saint-Barthelme 25 Sercq 26 Sharjah (UAE) 27 Iles Turks-et-Caicos 28 Umm al Quwain (UAE) 29 Vanuatu 30 Wallis-et-Futuna Countries considered non compliant by the OECD Global forum : Luxembourg, Chypre, Seychelles, Iles Vierges Britaniques List of countries were all the companies are not subject to corporate income tax. Com IR 199/34 List of countries were specific companies are not subject to corporate income tax. Com IR 199/35 List of art. 203 is available in art. 73/4quater RD BITC 1. Afghanistan 2. Aldernay 3. Belize 4. Bosnie-Herzégovine 5. Burundi 6. Cap Vert 7. République Centrafricaine 8. Comores 9. Iles Cook 10. Cuba 11. Dominique 12. Guinée équatoriale 13. ... 14. Gibraltar 15. Grenade			Polynesia, Gibraltar, Grenada, Guatemala, Hong Kong, Isle of Man, Kiribati, Lebanon, Liberia, Liechtenstein, Macau, Malaysia, Maldives, Marshall Isl., Montserrat, Nauru, Netherlands Antilles, Nevis, New Caledonia, Niue, Philippines, Oman, Solomon Isl., St. Helena, St. Kitts, St. Lucia, St. Vincent and Grenadines, Seychelles, Tonga, Turks and Caicos Isl., Tuvalu, US Virgin Isl., Vanuatu, Samoa.) The second section contains the countries regarded as having a privileged tax regime, with the exception of certain specific activities (Bahrain[iii]; Monaco[iv]; Singapore[v]; United Arab Emirates[vi]. The third one contains the countries and territories that are generally deemed not to have a privileged tax regime but that are, due to specific offshore legislation or other tax incentives, deemed to be tax havens with regard to specified low-tax activities(Angola[vii], Antigua[viii]; Costa Rica[ix]; Dominica[x]; Ecuador[xi]; Jamaica[xii]; Kenya[xiii]; Mauritius[xiv]; Panama[xv]; Puerto Rico[xvi], Switzerland[xvii] and		Treaties (“DTT”) and this list serves also for identification of NCJ for the purpose of application of specific anti-abuse measures (see below). Link to the list	become effective in Slovakia, therefore all the countries that are parties to the convention should be included on the White List. Also, an international agreement on exchange of information on tax matters between the Slovak Republic and Guernsey will become effective as of 1 January 2015, therefore Guernsey will be included on the White List.	Link to the list (It is just a project that started in 2009 and is still going on – Slovenia is in the process of introducing this system)	Practical Guides. - EUROPE 1. Isle of Man 2. Guernsey and Jersey (Channel Islands) 3. Gibraltar 4. Liechtenstein 5. Monaco - AMERICA 6. Anguilla 7. Antigua and Barbuda 8. Bermuda 9. British Virgin Islands 10. Cayman Islands 11. Falkland Islands 12. Grenada 13. Montserrat 14. Republic of Dominica 15. San Vincent and the Grenadines 16. St Lucia 17. Virgin Islands-United States 18. Turkish Islands and Caicos - AFRICA 19. Liberia 20. Seychelles 21. Mauritius - ASIA 22. Bahrain 23. Brunei 24. Jordan 25. Lebanon 26. Macau 27. Oman - OCEANIA 28. Cook Islands 29. Fiji 30. The Mariana	

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
	16. Guernesey 17. Guinée-Bissau 18. Haïti 19. Herm 20. Iran 21. Irak 22. Jersey 23. Kiribati 24. Corée du Nord 25. Laos 26. Liberia 27. Liechtenstein 28. Macao 29. Maldives 30. Ile de Man 31. Iles Marshall 32. Mayotte 33. Fédération de Micronésie 34. Monaco 35. Montserrat 36. Namibie 37. Niue 38. Oman 39. Panama 40. Saint Christopher et Nevis 41. Sainte-Lucie 42. Saint-Pierre-et-Miquelon 43. Saint-Vincent-et-les-Grenadines 44. Samoa 45. Samoa américaines 46. ... 47. Sao Tomé et Principe 48. Seychelles 49. Somalie 50. Tuvalu 51. Ouzbékistan 52. Iles Vierges britanniques 53. Iles Vierges américaines			Uruguay[xviii]" - See more at: link Ministerial Decree of 21 November 2001 (link) – provides the list of countries to which the CFC rules apply. Ministerial Decree of 4 May 1999 (link) provides the list of (black list) countries that applies to individuals. Ministerial Decree of 27 July 2010 excluded from the list the following privileged tax regimes: Cyprus, Malta, and South Korea. Ministerial Decree of 12 December 2014, effective from February 24, excluded the Republic of San Marino from the list of countries and territories with a privileged tax regime.					Islands 31. Nauru 32. Solomon Islands 33. Vanuatu	
4. How is the list updated? ▪ **Process put in place to review the list** ▪ **Periodicity of the**	The list included in article 179 of the RD BITC can only be updated by a new royal decree approved in the Council of Ministers.	The first list was issued as of 1 January 2010. It has been updated regularly since that date.	N/A	Some of the factors that will be taken into consideration for any review of the list will depend on the international	N/A	The jurisdictions that sign Exchange of Information agreements	A country would be included on the White List by the Ministry once the respective international convention/agreement	So far it has been updated only once since 2009, the authorities say that they do not	The list included in article 1 of the Royal Decree 1080/91 is not update in substance. However, according to article 2,	Not known.

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
update. ▪ **Which legal/ regulatory/administ rative provision is used to update the list and put it into force?**	Idem for the list included in art. 73/4quater of the RD BITC.	The list is updated every year depending mainly on: - The conclusion of new treaties; - The amendments made to the OECD list; - The degree of cooperation of the state or territory with France; - And the willingness of the foreign jurisdiction to conclude a treaty with France respecting the OECD standard on exchange of information in the tax area.		commitments of the specific country in terms of transparency and tax cooperation in tax matters; signature of double tax treaties against double taxation, and the level of taxation in the foreign country.		or Double Taxation Treaties with an information exchange clause with Romania are added to the list in the moment they become applicable.	t becomes effective in the Slovak Republic. Further, according to Section 52zb of the Income Tax Act (transitional provision) the countries that enter into the respective international convention/agreement with Slovak Republic in 2014 would be included in the White List irrespectively of the effectiveness of such international agreement/convention.	to expose the complete list as this process is still in phase of introduction in Slovenia, however the list stated above is not complete according to statements of state authority, as stated in the report on above link. Process put in place to review the list: Still to be known in the future, after the process finishes.	the jurisdictions that sign Exchange of Information agreements or Double Taxation Treaties with an information exchange clause with Spain are excluded of the list in the moment they become applicable.	
	At the introduction the government announced that the list of art. 179 should be updated every two years. But it has not been updated since its introduction in 2010. See answer on question 2 for the list of art. 73/4quater.	Every year	N/A	No specific and formal periodical update is set.	N/A	See above.	"White list" will be updated in dependence on the date of signature/effectiveness of the respective international convention/agreement (see above). There is no specific period prescribed by law.	Not known so far – since 2009 only one update.	As mentioned above the list is not updated formally but jurisdictions are excluded from the list and therefore no longer considered tax havens for tax purposes the moment they sign an Exchange of Information Agreement or Double Taxation Treaty with an Information Exchange clause with Spain and it becomes applicable.	The current list of offshore zones has not been updated since 2011.
	The list was introduced by Royal Decree of 06.05.2010. It can only be changed by Royal Decree	Ministerial Decision (joint decision of the Foreign affairs and	N/A	The list was put into force through Ministerial Decrees.	N/A	The list is referred to within the Methodologi	Section 2(x) of the Income Tax Act.	No provision yet.	The list was put into force through Royal Decree 1080/91.	The list of offshore zones (established by the Cabinet of Ministers of

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
	approved in the Council of Ministers. Idem for the list of art. 73/4quater on the participation exemption.	Finance ministers)				cal Norms for the application of the Fiscal Code (Government Decision no. 44/2004, point 8^4 for application of art. 116).				Ukraine) is taken into consideration within the determination of expenses deductibility. The Ukrainian Tax Code prescribes, that the new list shall be applicable in the calendar quarter following the quarter of official publication of the list of offshore zones. If there is a necessity to amend the list of offshore zones [the Ukrainian Tax Code does not provide the reasons for update], such changes should be made three months before the new reporting (tax) year begins. In this case changes come into force with the beginning of the reporting (tax) year.
5. What is the purpose of the list? **a) abstinence approach (treaty)** **b) limitation on benefits** **c) CFC**	List of art.307 BITC: - 'Non deductibility of' the amounts paid. - Facilitate tax audits The initial purpose of the list is to facilitate tax audits. Taxpayers who make payments to residents of countries that are on the list have to declare these	NCST are subject to various retaliations tax measures. a) Abstinence approach (treaty): Yes b) Limitation on benefits: Yes c) CFC: Nothing	N/A	Inclusion in the list entails the qualification of that jurisdiction as a tax haven/preferential tax regime. The list is set for anti-abuse purposes. Measures applied to listed countries:	N/A	The purpose of the list is to inform taxpayers on the countries with which Romania has a DTT/ exchange of	35% Withholding Tax rate In the case of income attributed to a No-Contract State Resident is subject to withholding tax under the Income Tax Act a higher 35% withholding tax rate	a) abstinence approach (treaty) b) limitation on benefits e) no tax deferral regime (for mergers, spin-offs, etc.) f) presumption	Inclusion in the list entails the qualification of that jurisdiction as a tax haven which gives rise to the application of various Specific Measures as described below.	a) 85% limitation on deductibility of expenses b) prohibition on deductibility of marketing, advertising, consulting, engineering, royalty expenses.

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
d) ***"non-deductibility of"*** **test** **e)** **no tax deferral regime (for mergers, spin-offs, etc.)** **f)** **presumption of tax residency in tax havens** **g)** **non-application of withholding tax exemptions to income obtained through non cooperative jurisdictions/tax havens** **h)** **others, please specify.**	payments (if they exceed 100.000 € in total/tax year) on a special form that has to be attached to the tax return. Failing to provide this special form will result in non deductibility of the payments made. The purpose of the list is to give an overview to the tax authorities of the payments made to tax havens or assimilated States. This overview will be used to make extra audits. - List of Art. 203 BITC : Application of the participation exemption.	specific to NCST d) "Non-deductibility of" test: Yes		a) Anti-abuse measures such as non-deductible costs (as per Art. 110 of the Italian Income Tax Code). b) CFC rules (as per Art. 167 of the Italian Income Tax Code) – profits from Italian controlled entities tax resident in blacklisted countries will be ascribed to their Italian resident owners (whether remitted to Italy or not). c) Tax exemption on capital gains (Art. 67 of the Italian Income Tax Code) d) Participation exemption on dividends (Art. 89 of the Italian Income Tax Code). e) Presumption of Italian tax residency of entities/individuals in tax havens (Art 2-bis of the Italian Income Tax Code): deemed residence in Italy of entities/individuals that transferred their tax residency to a tax haven. f) Italian revenue reporting requirements: Purchases from entities resident in blacklisted countries shall be		information agreement in place. Non-inclusion in the list entails the qualification of that jurisdiction as a NCJ which gives rise to the application of anti-abuse measures as described below.	will apply (standard rate is 19%). The 35 % tax rate will also apply in cases, where a Tax Resident or a permanent establishment of the Tax Non-resident in the Slovak Republic (the "Slovak Paying Agent") will have an obligation to withhold securing tax from payments made to the No-Contracting State Resident. The Slovak Paying Agent will also have an information obligation towards the tax authorities regarding the withheld tax from payments to the No-Contract State Residents. Non-deductibility of expenses In case the Slovak Paying Agent does not fulfil its obligations described above (withhold tax and pay it to the tax office; fulfil the information obligation), the expenses relating to the payments subject to 35% withholding tax/securing tax would be tax non-deductible.	of tax residency in tax havens		

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
				reported separately on Italian Annual Income Tax Returns. In addition, reporting requirements applicable to all transactions taking place after 01/07/2010 set forth that all sales to and purchases from blacklisted countries need to submitted electronically to the Italian tax authority. g) Non-deductibility of expenses paid to tax havens: At present this restriction to deductibility is extremely severe, since it concerns not only "doubtful" services, such as consultancy fees, royalties, commissions to intermediaries, but also the purchase of goods from those countries, if the Italian taxpayer is not successful in convincing tax auditors that the purchase was made for the real profit of his business.						
6. Measures applied to listed countries: Has your MS implemented any defensive measures to discourage taxpayers from diverting taxable income to non-cooperative	Defensive measures : yes. Encourage jurisdictions to eliminate tax privileges: no, but Belgium in its treaty policy stimulates countries to exchange information. There are several anti-abuse provisions in the Belgian tax code that seek	Withholding tax on dividends, service fees, interest, royalties, etc. is raised to 75%. The same rate applies for capital gains tax on the sale of French real estate or shares in French	Ireland does not separately identify countries as being non-cooperative tax jurisdictio	Yes, please see above.	Yes: NON-COOPERATIVE JURISDICTIONS: • Art. 4.13(1)(a) in conjunction with Art. 4.14(8)(c) of the Dutch Personal Income Tax Act 2001 ('PITA 2001') provides that, in	1) Increased withholding tax Payments made to residents of a jurisdiction with which Romania	Measures described in section 5 above may be considered to be such defensive measures. The Slovak Republic has not implemented any particular legislative defensive measures aiming to encourage	Not publicly known yet – the state authorities still have to "bring that out".	1: Presumption of Spanish Tax Residence of entities in tax havens Presumption of Spanish Tax Residence of entities in tax havens or countries with low taxation, when its	Measures described in section 5 above and section 10 below may be considered to be such defensive measures.

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
jurisdictions and to encourage such jurisdictions to eliminate tax privileges for non-residents? **If yes, which ones?**	to discourage taxpayers from having transactions with tax havens : - Art. 26 BITC, 54 BITC and 344, § 2 BITC all refer to the same principle transactions with non resident taxpayers who are not subject to corporate income tax or are resident in a country where the common tax system is notably more advantageous than the Belgian system are discouraged.	companies. More severe conditions for the deductibility of payments made to NCST. Non application of certain French preferential tax regimes in case of an investment made by a French taxpayer in a NCST, e.g. non-application of the parent-subsidiary regime, non-application of exemption on capital gains on the sale of shares. Nothing specific as regards tax privileges for non-residents.	ns or tax havens. Instead certain benefits and reliefs are restricted to businesses operating in, or owned by persons, located in countries that are in the EU or with which Ireland has a double tax agreement (DTA) or a tax information exchange agreement (TIEA). For example: •Participation exemption for capital gains. Ireland's participation exemption for companies		principle, an individual shareholder holding shares in a foreign 'investment company', under certain conditions, annually has to value its shareholding at its fair market value. An escape for this 'mark-to-market'-obligation exists if the subsidiary is subject to a profit tax resulting in a degree of taxation that is reasonable according to Dutch standards. • Art. 10a of the Dutch Corporate Income Tax Act 1969 ('CITA 1969') is the Dutch base erosion rule. Art. 10a(3)(b) CITA 1969 provides that, although a group loan was used for a 'tainted transaction' (e.g. a dividend distribution or a capital contribution), the interest is nevertheless deductible at the level of the Dutch debtor if the interest is subject at the level of the creditor to a profit or income tax that is reasonable according to Dutch standards and there no matter of compensation of losses or other entitlements for years prior to the conclusion of the loan agreement. 'Reasonable' is subsequently defined as at least 10% of a profit calculated according to Dutch standards, leaving	does not have a double tax treaty (DTT) or an agreement for information exchange are subject to 50% withholding tax rate in Romania, provided that the transaction is deemed as artificial. Note that the definition of artificial transactions is in line with the one provided by EU law and related jurisprudence. 2) <u>on-applicability of participation exemption</u> The participation exemption regime does not apply in	the non-cooperative jurisdictions to eliminate tax privileges for non-residents.		main assets, directly or indirectly, consist on goods or rights located in Spain, or when its main business activity is executed in Spain, unless the entity proves that its effective management is executed in the tax haven or country with low taxation and the incorporation and operations of the entity are due to sound business purposes different than the mere management of securities or other assets. 2: Non-Deductibility of Expenses Paid to Tax Havens Expenses paid to Tax Havens are non-deductible, unless the taxpayer proves that the transaction has been effectively carried out. 3: Participation Exemption for Dividends and Capital Gains The participation exemption rule is not applicable to income obtained from subsidiaries resident in a tax haven	

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
			on the disposal of qualifying shareholdings is not applicable to the disposal of shares in companies which are not resident in the EU or in countries with which Ireland has a DTA. •Withholding tax on dividends. certain exemptions from the requirement to withhold tax on dividends paid by Irish companies only apply if Ireland has a DTA with the country in which the recipient is resident.		art. 12b and 12c CITA 1969 out of application. • Art. 13(11)(a) CITA 1969 contains an 'escape' to ensure that the Dutch participation exemption does apply to a subsidiary, although it is 'held as a portfolio investment'. This 'escape' applies if the subsidiary is subject to a profit tax resulting in a degree of taxation that is reasonable according to Dutch standards. If, however, (i) the subsidiary is not subject to a profit tax resulting in a degree of taxation that is reasonable according to Dutch standards, (ii) the shareholding is at least 25% and (iii) the assets of the subsidiary consist, directly or indirectly, exclusively or almost exclusively of low-taxed free portfolio assets, an obligation exist to annually value the shareholding at its fair market value pursuant to art. 13a CITA 1969. • Art. 13ba CITA 1969 contains an anti-abuse rule that prevents a Dutch creditor from depreciating a loan receivable from an associated company (reducing Dutch taxable profits), followed by, inter	relation to companies resident in states with which Romania does not have a DTT in place. 3) on-recognition of foreign losses Losses incurred by a foreign PE established in a country which does not have a DTT with Romania / is not an EU/ EFTA member state cannot be offset with the profits of the Romanian head-office. 4) enial of fiscal credit Fiscal credit for the tax paid by a foreign PE shall not be granted unless the PE is set-up			jurisdiction (except for EU tax havens provided that the taxpayer proves its incorporation and operations have a sound business purpose and the entity executes business transactions). 4: Participation Exemption for Branch Income Income derived from branches can be exempt provided that (i) Income obtained by the branch / PE derives from business activities outside of Spain, (ii)The branch / PE has been subject to a tax similar to the Spanish corporate income tax, and the branch / PE is not located in a tax haven. 5: Limitation on Transfers of Right of Use Intangible Assets to Tax Havens (Patent Box) Income received from the transfer of the right of use of certain intangible assets can be partially exempt insofar the acquiring entity does not reside in a tax haven.	

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
			•Incentive for foreign executives (SARP). Ireland has an incentive designed to reduce the income tax burden on workers moving to Ireland on assignment. This relief is only available if the person was employed by a company resident in a country with which Ireland has a DTA. Ireland also provides certain tax benefits where countries have signed up to the Convention on Mutual		alia, a relinquishment of the loan. In that case, the main rule is that the amount the depreciation is effectively clawed-back. An exception exists where the benefit at the level of the debtor is subject, at the level of the creditor, to a profit or income tax that is reasonable according to Dutch standards. OTHER GENERAL ANTI ABUSE MEASURES: Anti-dividend stripping • Art. 4(7) and Art. 4(8) of the Dutch Dividend Withholding Tax Act 1965 ('DWTA 1965') contains a specific anti-dividend stripping measure and provides that in certain cases, the recipient of a dividend is not regarded as its 'beneficial owner' and hence, not entitled to an domestic / treaty exemption from the imposition of dividend withholding tax or a refund of dividend withholding tax. Treaty based (Limitation on Benefits) • Several recently concluded/amended tax treaties, inter alia, the tax treaties with Hong Kong (signed in 2010) and Japan (2010) contain treaty-based anti-abuse	in a country with which Romania has a DTT.			6: Tax Deferral Regime for Mergers, Spin-Offs or Share for Share Exchange No deferral would be applicable if the transactions were executed with/through tax havens. 7: CFC Rules For subsidiaries resident in a tax haven, it would be presumed that requirement of taxation below 75% is met, and therefore income is treated as passive income. 8: Limitations of the ETVE Regime for Tax Havens Dividends paid by an ETVE to non-resident entities, out of income that has been exempted from Spanish corporate income tax, fall outside the scope of Spanish dividend withholding taxation except if the non-resident entity receiving the dividends or realizing the capital gains is resident in a tax haven. 9: Portfolio	

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
			Administration Assistance in Tax Matters but do not have a DTA or TIEA with Ireland. Dividends received from trading profits from companies resident in those countries are eligible to elect to be taxed at the same rate of tax as Irish trading profits (12.5% rather than 25%). Dividends from countries which have not signed up to the Convention and which do not have a DTA or TIEA with		provisions. Withholding tax liability for a Dutch Coop in case of abuse • Art. 1(7) of the Dutch Dividend Withholding Tax Act 1965 (DWTA 1965) introduces a dividend withholding tax liability for a Dutch Coop (cooperative society) if a Coop is inserted in a corporate structure with the aim of avoiding (foreign) withholding tax. An example is where a Coop is interposed between ForeignCo1 and ForeignCo2. If a dividend payment by ForeignCo2 to ForeignCo1 would be subject to withholding tax in the State of ForeignCo2, the interposition of a Dutch Coop (assuming that under the treaty between the Netherlands and State of ForeignCo2 the amount of withholding tax is reduced to nil) would reduce the withholding tax liability. Abuse of object exemption • Generally, income from a foreign permanent establishment ('PE') is exempt at the level of the Dutch head office (the exemption, a so-called 'object exemption', applies to both profits				Depreciation Portfolio depreciation correspondent to entities resident in a tax haven is not deductible unless (i) the entities are part of the same consolidated accounts or (ii) the non-resident is resident in a EU tax haven and the taxpayer proves its incorporation and operations have a sound business purpose and the entity executes business transactions 10: Valuation of Transactions with Tax Havens Transactions with entities in tax havens are valued at fair market value, provided that this value does not result in taxation in Spain lesser to the one that would have corresponded with the agreed value or a deferral of the taxation. 11: Withholding Tax on Dividends to EU Entities. The exemption is not applicable to parent entities resident in a	

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
			Ireland are not eligible for this election.		and losses of the foreign PE). Under certain conditions, a (less favourable) tax credit instead of a tax exemption applies (art. 15g CITA 1969). This is the case, generally speaking, where: (i) the activities of the PE consist of 'passive' financing activities and (ii) the PE's profits are not subject to a tax that is reasonable according to Dutch standards. <u>Substantial interest provision for non-resident taxpayers</u> • Art. 17(3)(b) CITA 1969 is the substantial interest provision for non-resident corporate shareholders holding significant (=>5%) shareholdings in Dutch-resident companies. The income from such a substantial interest is taxable with Dutch corporate income tax if (i) the non-resident shareholder holds the substantial interest with the principal objective or one of the principal objectives to avoid the imposition of personal income tax or dividend withholding tax with another and (ii) the substantial interest cannot be attributed to the business enterprise of the shareholder.				tax haven. 12: Information of Transactions with / Interest in Tax Havens in the Corporate Income Tax Return. Transactions with entities in tax havens or interest in tax havens must be reported in the corporate income tax return. 13: Non-Application of Withholding Tax Exemptions to Income Obtained Through Tax Havens. Certain exemptions from withholding taxes applicable to non-resident entities without a permanent establishment in Spain (i.e., interest paid to EU entities, certain capital gains obtained by EU entities, capital gains from the disposal of securities in a stock exchange market, exemption for the first EUR 1.500 dividends) are not applicable if the income has been obtained through a tax haven.	

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
7. Which is the rationale used by your MS in drafting such blacklist? Is there a specific formal procedure to be followed (objectively justified)?	The rationale behind the list is to improve the transparency of payments made to States considered tax havens.	See above. No formal procedure.	N/A	The rationale used in drafting such lists takes into consideration: conclusion of Information Exchange Agreements or Double Taxation Conventions that include an Information Exchange Clause; level of transparency; and the effective level of taxation in the foreign country (by comparing income tax payable with earnings before taxes). The criteria for the determination of Preferential Tax Regimes territories and states is defined in article 168- *bis* of the Italian TUIR.	N/A	The rationale behind the list is to take account of the countries that qualify as NCJs, on the basis of the existence of Information Exchange Agreements or DTTs that include an Information Exchange Clause.	The rationale behind the White List is to discourage Slovak taxpayers from diverting their income to entities in non-cooperative jurisdictions.	As stated in the report (available in the link above) the rationale is to prevent taxpayers to do business in above mentioned states. No specific formal procedure yet, we believe the state is in the phase of preparations of law at the moment.	The rationale behind the list is to take account of the countries that qualify as Non-Cooperative Jurisdictions, on the basis of the existence of Information Exchange Agreements or Double Taxation Conventions that include an Information Exchange Clause. Anti-abuse rules and other defensive methods then relate back to this list when they allude to a 'tax haven'.	The rationale behind the list of offshore zones is to discourage Ukrainian taxpayers from diverting their income to entities in non-cooperative jurisdictions.
8. From a tax policy perspective, do you monitor and take into consideration other EU MS' blacklist updates for the purpose of updating your own blacklist?	No. OECD forum's list is taken into account but only as from assessment year 2014. A State will be considered a tax haven if it is considered as non compliant by the OECD during the whole fiscal year.	No.	N/A	No (not officially).	N/A	No.	No (officially). The Income Tax Act does not provide for such procedure.	No.	No (officially).	There are no official requirements to align Ukrainian list with EU`s, but while updating the list, EU experience is taken into consideration
9. Does your MS spontaneously exchange relevant information regarding cross-border rulings (which may be relevant/have impact for the tax authorities of another Member	Belgium implemented all EU directives on the exchange of information, has ratified the joint Council of Europe/OECD convention on mutual administrative assistance in tax matters and does exchange information on a regular basis.	Yes, as it seems.	Ireland has implemen ted the Directive on Mutual Assistance and does exchange informatio n automatic	No.	According to the APA/ ATR Decree issued by the Dutch State Secretary of Finance, the Netherlands exchanges relevant information spontaneously with other states regarding Advance Pricing Agreements for companies that conduct back to back financing activities, provided that	Romania has ratified in 2014 the Directive on Mutual Assistance but we are not aware if any spontaneous exchanges of information	The Directive on Mutual Assistance wa implemented into the Act no. 442/2012 Coll on international assistance and cooperation in tax administration, according to which a competent authority of the Slovak Republic shall provide, request	No.	No (officially).	Ukraine has ratified the Directive on Mutual Assistance in 2008, under which agreed to exchange relevant information regarding cross-border rulings which may be relevant/have impact for the tax

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
State), in accordance with the provisions of the Directive on Mutual Assistance, with the other Member State?			ally with other Member States.		the company does not meet the Dutch substance requirements and it is funded with an insufficient level of equity.	regarding cross-border rulings have taken place until now based on this directive.	and/or receive international assistance and cooperation for tax administration purposes in order to ensure the correct assessment and payment of taxes. Detailed information on implementation of the procedures mentioned above by the Slovak tax authorities is not available.			authorities of another Member State.
10. Beneath which rates does your MS consider that an effective level of taxation is considerably lower than the general level of taxation in your country?	Nominal tax rate less then 10 %. To benefit from the participation exemption: nominal/effective tax rate less than 15 %.	50%	N/A	Pursuant to the informal opinion of the Italian Chamber of Deputies, the foreign level of taxation can be considered considerably lower whenever it is 30% lower than the general level of taxation in Italy.	According to Dutch tax law (e.g. Article 10a CITA 1969 and Article 13l CITA 1969), an effective level of taxation is 'considerably lower' if profits are taxed as such that there is no "genuine levy" according to Dutch standards. In summary, there is a 'genuine levy' in the other State if: • The general statutory tax rate is at least 10% and there are no specific deviations in taxable basis. • The general statutory tax rate is at least 10% and there are specific deviations in taxable basis, but it is likely that the effective tax rate will be at least 10%; or The general statutory tax rate is less than 10%, but it is likely that the effective tax rate will be at least 10%.	No official guidance provided in this respect.	N/A The Slovak tax law does not recognise the concept of "considerably lowe level of taxation".	12.5%	Under 75%. In the Corporate Income Tax Law draft, however, certain provisions (such as the P/S directive will not apply if the nominal rate in the foreign country is less than 10%).	For TP purposes countries (territories) in which the corporate profit tax (further – CPT) rates are five (5) or more percentage points below the Ukrainian CPT rate (18% for 2014) are considered low-tax regimes. All transactions exceeding UAH 50 mln with an entity in such locations are subject to Ukrainian TP rules irrespective of the actual rate applicable. Albania Andorra Anguilla Antigua and Barbuda Aruba

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
										Bahamas, the Bahrain Barbados Belize Bermuda Bosnia and Herzegovina British Virgin Islands Brunei Darussalam Bulgaria Canary Islands Cape Verde Cayman Islands Cook Islands Curacao Cyprus French Guiana Georgia Gibraltar Grenada Guadeloupe Guernsey Ireland Jamaica Jersey Kosovo and Metohija Kyrgyz Republic Lebanese Lesotho Liberia Liechtenstein Luxembourg Macao SAR, China Macedonia, FYR Madeira, AR (Portugal) Malaysia Maldives Malta Isle of Man Marshall Islands Martinique Micronesia, Fed.

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
										Sts. Moldova Montenegro Montserrat Morocco Nauru Northern Mariana Islands Oman Palau Panama Paraguay Qatar San Marino Sao Tome and Principe Seychelles Singapore St. Vincent and the Grenadines St. Kitts and Nevis St. Lucia St. Martin (Dutch part) Sudan Switzerland Timor-Leste Turks and Caicos Islands U.S.Virgin Islands United Arab Emirates Uzbekistan Vanuatu In addition, if a company located in a jurisdiction other than those listed above pays CPT at a rate of 13% or lower in 2014, transactions with such a company will be subject to

2014 Tax Havens questionnaire, expanded (CFE)

20 October 2014

Question	Belgium	France	Ireland	Italy	Netherlands	Romania	Slovakia	Slovenia[i]	Spain[ii]	Ukraine
										TP rules.
11. Does your MS have in place a regular review process on administrative practices (e.g., Tax Rulings)?	Yes. Tax rulings are delivered.by the Ruling Commission. Rulings are published on an anonymous basis. The ruling commission also has the obligation to file an annual report with the supervising minister, the Minister for finance. The annual report is discussed in Parliament (Commission for finance) and there is also a special parliamentary hearing with the President of the ruling Commission.	No.	Opinions / rulings granted by the Irish Revenue are non-binding in nature. Opinions granted by the Irish Revenue's Large Cases Decision automatically expire after a 7 year period.	No.	No.	To our knowledge there is an internal review process of administrative practices (e.g. tax rulings) which entails requesting points of view from specialised bodies within the Ministry of Finance, approvals from legal committees, other internal approvals.	The Tax Directorate of the Slovak Republic regularly publishes on its website guidelines or methodical instructions in order to secure unified application of tax legislation by tax authorities as well as by the public. Also, regular methodical meetings with the attendance of the Tax Directorate staff, the Ministry staff and Slovak tax professionals take place. However, this process is not regulated by law in detail.	No.	No.	Ukrainian tax authorities regularly issues general tax clarifications on specific questions in order to clarify tax legislation and to prevent ambiguous interpretation of tax legislation. Also the taxpayer may request individual tax clarification (procedure is prescribed by the Ukrainian Tax Code).

[i] Slovenian tax authorities are in the phase of preparations of measures for the concerned matter that is why only few answers are available at the moment as this is very important and also political issue at the moment.

[ii] Spain: Notwithstanding the foregoing, the preliminary draft Law to amend the Non-residents Income Tax Law includes the implementation of an additional provision that seeks to define the concepts of 'tax haven', 'nil taxation jurisdictions' and 'effective exchange of tax information' by laying out the criteria that is deemed to be considered.
It establishes in its first paragraph that the list of countries that will be considered as 'tax havens' for the purpose of the law will be determined by a regulation, no longer a law. In its fourth paragraph, that each tax regulation may establish specialities in the application of the norms that are contained in this provision. Ultimately it authorises the government to enact any provision needed to further develop this one.
In the light of the above mentioned, the AEDAF considers; first that it will cause a great degree of legal uncertainty as to determine which countries qualify to be considered tax havens or jurisdiction with nil taxation and which don't. Secondly, that insofar it plays a role the determining of the taxable base of non-resident entities, this provision is contrary to the principle of 'Reserva de ley' (which means that at a certain level, laws must be approved by Parliament and not merely by the Government) and consequently should be regulated by means of a Law and not a Regulation.

[iii] excluding companies that carry out exploration, extraction and refining in the oil industry

[iv] excluding companies whose turnover derives for more than 25% from outside the principality

[v] excluding the Central Bank and other entities that manage the official reserves of the state

[vi] excluding companies that carry out exploration, extraction and refining in the oil industry

---

[vii] with respect to oil companies that benefit from the exemption from oil income tax, to companies which benefit from exemptions or reductions of tax in industries essential to the Angolan economy and to investments provided for by the Foreign Investment Code
[viii] with respect to international business companies that carry out their activity abroad, such as those under the International Business Corporation Act No. 28 of 1982 and subsequent amendments and integrations, and to companies that manufacture authorized products such as those under Law 18 of 1975 and subsequent amendments and integrations
[ix] with respect to companies deriving income from foreign sources and companies engaged in high-technology activities
[x] with respect to International companies carrying out their activity abroad
[xi] with respect to companies carrying out their activity in the free trade zones that benefit from the exemption from income taxes
[xii] with respect to companies manufacturing for foreign markets and enjoying the tax benefits of the Export Industry Encouragement Act and to companies located in the territories indicated in the Jamaica Export Free Zone Act
[xiii] with respect to companies established in the export processing zones
[xiv] with respect to "certified" companies engaged in export services, industrial development, tourism management, industrial construction and clinics and that are subject to lower than ordinary corporate tax, to off-shore companies and to international companies
[xv] with respect to companies deriving income from foreign sources, as defined under Panama legislation, to companies located in the Colon Free Zone and to companies carrying out their activity in the export processing zone
[xvi] with respect to companies engaged in banking activities and to companies under the Puerto Rico Tax Incentives Act of 1988 or the Puerto Rico Tourist Development Act of 1993;
[xvii] with respect to companies not subject to cantonal and municipal taxes, such as holding, auxiliary and domiciliary companies
[xviii] with respect to companies carrying out banking activities and to holding companies that carry out exclusively off-shore activities)