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Anti-avoidance rules against international tax planning: A classification

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Øystein Bieltvedt Skeie,
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ANTI-AVOIDANCE RULES AGAINST INTERNATIONAL TAX PLANNING: A CLASSIFICATION

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By Åsa Johansson, Øystein Bieltvedt Skeie and Stéphane Sorbe

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ABSTRACT/RÉSUMÉ

Anti-avoidance rules against international tax planning: A classification

This paper describes the main anti-avoidance rules against international tax planning by multinational enterprises in OECD and G20 countries. Building on this information and on previous classification efforts in the literature, a new classification of anti-avoidance strength is compiled. It takes into account five key dimensions of anti-avoidance: (i) transfer price rules and documentation requirements; (ii) rules on interest deductibility such as thin capitalisation and interest-to-earnings rules to prevent the manipulation of debt location; (iii) controlled foreign company (CFC) rules; (iv) general anti-avoidance rules (GAARs); and (v) withholding taxes on interest payments, royalties and dividends, taking into account bilateral tax treaties. The classification is based on a simple framework aiming to capture the main features of anti-avoidance rules in a harmonised way across countries, although it inevitably leaves aside certain country-specific characteristics as well as the enforcement of existing rules. The empirical analysis in Johansson et al., (2016), which is based on this classification, suggests that strong anti-avoidance rules can reduce profit shifting.

JEL classification codes: F23, H26, K34.

Key words: Anti-avoidance rules, international tax planning

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Règles anti-évitement contre la planification fiscale internationale : une classification

Ce document décrit les principales règles anti-évitement contre la planification fiscale internationale par les entreprises multinationales dans les pays de l'OCDE et du G20. En s'appuyant sur cette description et sur les efforts de classification précédents dans la littérature, une nouvelle classification de la force des règles anti-évitement est compilée. Elle prend en compte cinq dimensions clés de l'anti-évitement: (i) les règles de prix de transfert et les exigences en matière de documentation ; (ii) les règles sur la déductibilité des intérêts pour empêcher la manipulation de l'emplacement de la dette, telles que les règles relatives à la sous-capitalisation ou portant sur les ratios intérêt-bénéfice ; (iii) les règles CFC sur les sociétés étrangères contrôlées ; (iv) les règles générales anti-évitement (GAAR) ; et (v) les impôts retenus à la source sur les paiements transnationaux d'intérêts, de redevances et de dividendes, en tenant compte des conventions fiscales bilatérales. Le classement est basé sur un cadre simple visant à capturer les principales caractéristiques des règles anti-évitement d'une manière harmonisée dans tous les pays, même si elle laisse inévitablement de côté certaines caractéristiques propres à chaque pays, ainsi que l'application des règles existantes. L'analyse empirique de Johansson et al., (2016), qui est basée sur cette classification, suggère que des règles anti-évitement fortes peuvent réduire les transferts de bénéfices des entreprises multinationales.

Classification JEL: F23, H26, K34

Mots clés: Règles anti-évitement, planification fiscale internationale

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ANTI-AVOIDANCE RULES AGAINST INTERNATIONAL TAX PLANNING: A CLASSIFICATION

By Åsa Johansson, Øystein Bieltvedt Skeie and Stéphane Sorbe[1]

1. Introduction

1. This paper describes the main so-called anti-avoidance rules against international tax planning in place among OECD and G20 countries. Based on five main dimensions of these rules, a classification of anti-avoidance strength is constructed for the countries considered for the years 2005 and 2014. This classification builds upon and extends existing classifications in the academic literature.

2. The classification is used in the empirical analysis in Johansson et al. (2016) to show that anti-avoidance rules can effectively reduce tax planning by multinational enterprises (MNEs). Also based on this classification Sorbe and Johansson (2016a) suggests that strong anti-avoidance rules can reduce the impact of tax planning on market concentration. Sorbe and Johansson (2016b) suggests that strong anti-avoidance rules increase the sensitivity of tax-planning MNEs' investment to changes in the corporate tax rate. Based on the relevant component of the classification, Sorbe et al. (2016) shows that strong rules reduce manipulation of debt location. Finally, Skeie et al. (2016) suggests that strong anti-avoidance rules can reduce the strategic tax-motivated location of patents.

3. The main types of anti-avoidance rules against international tax planning can be described as follows (OECD, 2013a):

- **Transfer price rules** require that cross-border transactions between related firms should be valued at market price (so-called "arm's-length" principle). When no comparable transaction exists, different valuation methods can be used, for instance based on cost plus a fixed mark-up or using economic models to split the relevant profit among entities.

- **Thin capitalisation rules and rules limiting interest deductibility** disallow the deduction of certain interest expenses when the debt-to-equity or the interest-to-earnings ratio of the debtor is considered excessive. These rules apply either to total or related-party debt.

- **Controlled foreign company (CFC) rules** aim at eliminating the deferral of tax on certain income by using lower-tax foreign affiliates or the exemption on certain mobile foreign source income.

- **General anti-avoidance rules (GAARs)** prohibit "aggressive" tax avoidance, for instance, by denying tax benefits from a transaction that lacks economic substance.

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4. Withholding taxes on interest, royalties and dividends are not anti-avoidance rules in a strict sense, but they can also influence firms' profit shifting opportunities. For instance, withholding taxes on interest payments can discourage the use of (internal) debt for tax planning. Withholding taxes on royalties can discourage the allocation of royalties to certain jurisdictions to gain a tax advantage.

2. Overview of anti-avoidance rules and withholding taxes

5. The information and data describing anti-avoidance regulations and withholding taxes rely on various external sources such as Global Tax Handbooks by accounting firms, country notes on taxation, academic papers and OECD in-house material. The information refers to two years, 2005 and 2014 (see details in Tables A1.1 and A1.2). The purpose is to construct a classification summarising the strength of anti-avoidance rules and corporate tax provisions against international tax planning. Since detailed tax rules vary significantly between countries, the classification aims at grouping countries along broad key dimensions using simple and mechanical rules.

6. Five dimensions are taken into account: transfer price rules, interest deductibility rules, CFC rules, GAARs, and withholding taxes. Admittedly, this leaves aside some important dimensions (e.g. anti-hybrid rules), which are difficult to classify in a harmonised framework. On transfer price rules, interest deductibility rules and withholding taxes, countries are grouped on a 0-1-2 scale, which captures the broad strength of rules, but inevitably misses important country-specific details. For CFC rules and GAARs, the grouping is based on a 0-1 dummy reflecting the absence or existence of a rule. This is because these rules are more country-specific and thus more difficult to classify in terms of their relative strength. Another limitation with this classification is that differences across countries in the enforcement of existing rules (e.g. frequency of tax audits, penalties in case of non-compliance) cannot be measured.

2.1 Transfer price rules

7. All OECD and G20 countries have transfer price rules to prevent firms from manipulating the price of related-party transactions for tax purposes (see Tables A1.1 and A1.2). These rules are usually based on the arm's-length principle outlined for example in OECD (2010), which states that the price of transactions between related parties should be comparable with transactions between third parties. When no comparable transaction exists, a range of methods can be used, for example based on costs (assuming a conventional mark-up rate), on the profitability of comparable entities or on economic models to split the relevant profit among entities.

8. The strictness of transfer price rules and the associated documentation requirements differ across countries. The classification of strictness of transfer price rules focuses mainly on documentation requirements and draws on recent work by Lohse et al. (2012) and Lohse and Riedel (2012). It summarises the five-category index in Lohse et al. (2012) and extends it to more countries and years based on the same methodology. The classification distinguishes if transfer price rules are part of tax law or not and if documentation requirements exist in tax law or required in practice (e.g. in case of audit). Regulations with documentation requirements are considered stricter than regulations without, and even stricter if the documentation requires a disclosure of a transfer price report of related transactions with the annual tax return. Transfer price regulations are scored according to the following criteria:

Transfer price rules

Score	Description
0	Arm's-length principle rule exists, but the rule is not part of tax law or no documentation requirement exists.
1	Arm's length principle rule is part of tax law; documentation requirement is part of tax law or is required to exist in practice.
2	Arm's length principle rule is part of tax law; documentation requirement is part of tax law or required to exist in practice. Disclosure of transfer price transactions is required with the annual tax return.

2.2 Thin capitalisation rules and rules limiting interest deductibility

9. Thin capitalisation rules and rules limiting interest deductibility are frequent among the countries included in this study (see Tables A1.1 and A1.2). Rules based on debt-to-equity ratios are more frequent than rules based on interest-to-earnings ratios, but a few countries (e.g. Germany, Portugal, Spain) have recently moved from debt-to-equity to interest-to-earnings rules.

10. The design and strictness of these rules vary among countries. Rules on debt-to-equity differ in terms of the threshold beyond which interest payments on debt are no longer deductible. Certain countries target total debt and others related-party debt. Rules also differ in the denial of interest deductibility: some countries deny deductibility of interest on debt in excess of the limit while others on all the debt (Merlo and Wamser, 2014; Blouin et al. 2014). Interest-to-earnings rules also differ between countries, notably in terms of the deductibility threshold and the ceiling of "safe haven" interest expenses.

11. The strictness of thin capitalisation classification takes into account the level of the debt threshold and the type of debt. All else equal and for a given threshold, rules that apply to total debt are stricter than rules that apply to related debt. Thus, to compare these rules on a common metric, the rules that apply to related debt are "converted" to total debt based on a simple and mechanical assumption. Assuming that the average third party debt is 100% of equity, a related-debt rule is considered broadly equivalent to a rule based on total debt with a one unit higher threshold. For example, a related-debt rule with a threshold of 3:1 is considered equivalent to a total debt rule of 4:1.

12. Interest-to-earnings rules are also converted to the common metric (based on the threshold for total debt). The assumption is based on the fact that the average debt-to-equity ratio among firms in the ORBIS database sample (from Johansson et al., 2016) is about one, while the average ratio of interest to earnings (EBITDA) ratio is about 0.2.[2] This implies a conversion factor of 5. That is, an interest-to-earnings rule of 25% is deemed equivalent to a debt-to-equity rule of 1.25:1 (i.e. a 125% threshold on the debt-to-equity ratio).

13. Following these conventions, the relative strength of thin capitalisation rules and rules limiting interest deductibility is scored as follows:

2. ORBIS is a commercial database provided by Bureau Van Dijk. This database contains information on listed and non-listed firms' financial accounts and ownership structure (see Johansson et al., 2016).

Thin capitalisation rules and rules limiting interest deductibility

Score	Description
0	No debt-to-equity (or interest-to-earnings rule) exists in the country.
1	Debt-to-equity or interest-to-earnings rule exists and the rule is less strict than the median (3:1 on total debt) strictness in the sample in 2005.
2	Debt-to-equity or interest-to-earnings rule exists and the rule is at least as strict as the median (3:1 on total debt) strictness in the sample in 2005.

2.3 Controlled foreign company (CFC) rules

14. More than half of the countries included in this study use CFC rules to prevent erosion of the domestic corporate tax base and to discourage shareholders from shifting income to lower-tax countries (see Tables A1.1 and A1.2). These CFC rules differ widely among countries and work differently in territorial and worldwide tax systems. The main common feature of CFC regimes is that they aim at eliminating the deferral of (in some cases passive) income earned by a CFC and shareholders on their share of the CFC's income regardless of whether it has been repatriated or not.[3]

15. Typical conditions for the application of CFC rules are that a domestic taxpayer controls the CFC and that the CFC is located in a low-or-no-tax jurisdiction or in country that is included in a "black" or "grey" list of tax jurisdictions. Also, CFC rules often apply if low-taxed affiliates exploit the exemption system of the parent to invest in low-taxed passive assets such as royalties abroad (Ruf and Weichenrieder, 2013). All these specificities make it difficult to compare the strength of CFC rules across countries, although a tentative classification was established by Markle and Robinson (2012). Therefore, the classification is only based on the existence of a rule, with the following convention:

CFC rules

Score	Description
0	No CFC rule exists in the country.
1	A CFC rule exists in the country.

2.4 General anti-avoidance rules (GAARs)

16. GAARs are sets of rules within a country's tax code which aim at counter tax avoidance. Anti-avoidance rules typically apply by focusing on the substance of a transaction or arrangement. One common feature is to limit or deny tax benefits when insufficient economic substance is present. For instance, this can occur when the taxable income of a firm is reduced as a result of a transaction that has no reasonable commercial purpose or where the purpose of a transaction is to directly or indirectly alter the tax incidence.

17. Several countries have some form of GAARs (see Tables A1.1 and A1.2). Countries develop and implement their GAARs differently. Nevertheless, there are some common characteristics generally found in GAARs among countries (PricewaterhouseCoopers, 2012 and Ernst & Young, 2013) including:

3. In some countries, exemptions exist (e.g. the active financing exception in the United States) allowing firms to by-pass the CFC-rules under certain conditions.

(i) identification of a scheme or arrangement; (ii) quantification of tax benefit or tax advantage associated with that scheme; (iii) purpose test to assess if the firm achieves a tax advantage through the scheme. However, there are also a number of differences in GAARs among countries, such as the inclusion of misuse or abuse provision, tainted element provision, etc. Reflecting the difficulty to assess the relative strength of GAARs on a harmonised scale, they are simply classified based on their existence:

General anti-avoidance rules (GAARs)

Score	Description
0	No GAAR exists in the country.
1	A GAAR exists in the country.

2.5 Withholding taxes

18. Most OECD and G20 countries apply withholding taxes on interest, royalties and dividends. Withholding taxes are taxes levied on these payments when they are destined to non-resident entities. They can be eligible for a tax credit in the destination country. Most countries also grant reduced withholding tax rates through bilateral tax treaties (see Tables A1.1 and A1.2). Strictly speaking, withholding taxes are not anti-avoidance rules, but they influence cross-border tax planning opportunities. For example, withholding taxes on interest can reduce the gains from manipulation of debt location. Withholding taxes on royalties can reduce the gains from strategic allocation of intangible assets.

19. The classification of withholding tax strictness considers the standard rates applying to interest, dividends and royalties, which apply to non-treaty countries. It also takes into account the number of bilateral treaties. Higher standard tax rates and fewer treaties are assumed to constitute a stricter regime. The rationale is that tax treaties generally contain provisions that reduce or eliminate withholding taxes between the two countries involved, although they can also contain specific anti-avoidance provisions. Thresholds on average tax rates and the number of tax treaties are determined based on 2005 data and are kept constant in 2014 to ensure that a country with constant tax rates and a constant number of treaties would be classified identically in 2005 and 2014. More specifically, the scoring rules are as follows:

Withholding taxes

Score	Description
0	The average rate of taxes on interest, royalties and dividends is below or equal to the median among countries included in the analysis (i.e. 20%) and the number of bilateral tax treaties is above the average (52 treaties).
1	Either (i) the average rate of taxes on interest, royalties and dividends is below or equal to the median among countries included in the analysis (20%) and the number of bilateral tax treaties is below the average (52 treaties); or (ii) the average rate of taxes is strictly above the median (20%) and the number of bilateral tax treaties is above the average (52 treaties).
2	The average rate of taxes on interest, royalties and dividends is strictly above the median among countries included in the analysis (20%) and the number of bilateral tax treaties is below the average (52 treaties).

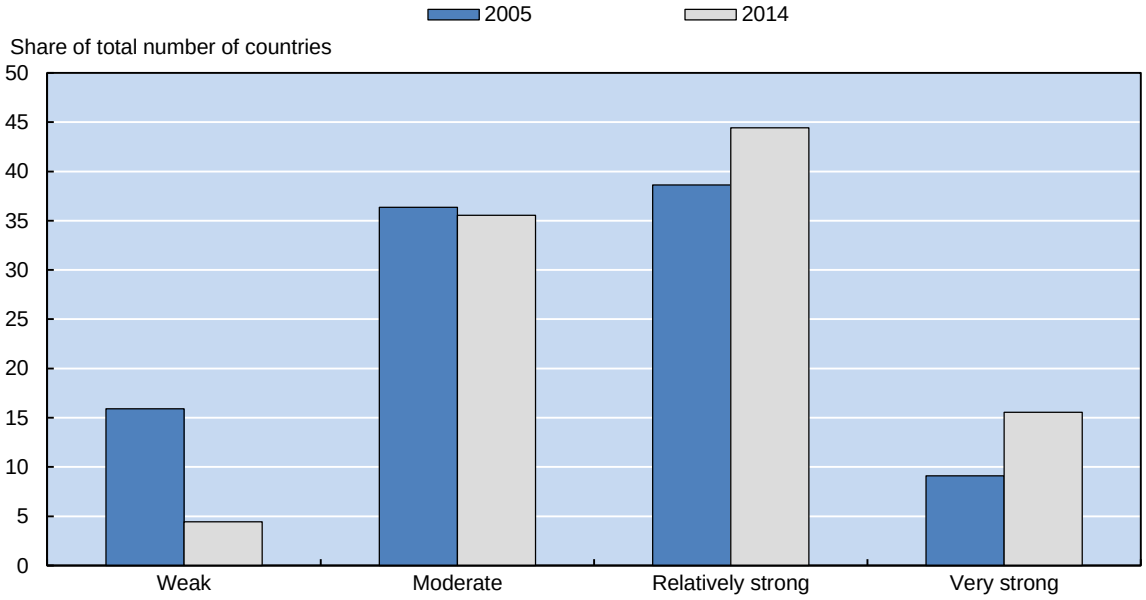
2.6 Overall classification

20. The classification on the strength of anti-avoidance and withholding taxes is computed by summing the five components. The resulting classification has a 0-8 scale (Table A1.3). An important caveat is that the enforcement of existing rules is not taken into account.

21. Over 2005-14, the overall anti-avoidance stance has slightly strengthened among OECD and G20 countries (Figure 1). Another interesting feature is that higher-tax rate countries tend to have stronger anti-avoidance rules than lower-tax countries. This probably reflects that firms in higher-tax countries have more tax-planning incentives than in lower-tax countries, as gains from tax planning are higher. At the same time, potential tax revenue losses are greater, pushing governments to have stronger rules.

Figure 1. Illustrative classification of anti-avoidance rules[1]

Distribution of countries by degree of strength of anti-avoidance rules and withholding taxes



1. 15% of countries in the sample (which includes all OECD and G20 countries) had "very strong" anti-avoidance rules in 2014. A "very strong" anti-avoidance rule corresponds to a score of 7-8 on the 0-8 classification presented in this paper. A "relatively strong" rule corresponds to a score of 5-6, a "moderate" to 3-4 and "weak" to 0-2. The classification does not reflect the enforcement of existing rules.

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APPENDIX 1: DETAIL OF ANTI-AVOIDANCE RULES BY COUNTRY

Table A1.1 Key anti-avoidance rules and withholding taxes, 2005

	Transfer pricing legislation			Rules against debt manipulation				Withholding tax rates (non-treaty countries)				CFC rule		GAAR
	Legislation exists	Document requirements	Year of introduction	Debt to equity ratio	Type of debt	Year of introduction	Interest capping rule	Dividend	Interest	Royalties	Number of tax treaties	CFC rule	Year of introduction	
Argentina	Yes	Yes, statutory requirement. Long discloure documentation (requirement to file an annual transfer price study of all related transactions)	1998	2:1	Related	1999	No	35%	35%	32%	18	Yes	1999	Economic substance rule
Australia	Yes	No statutory requirement in law, but required in practice. Short disclosure documentation	1981	3:1	Total	1987	No	30%	10%	30%	40	Yes	1990	Yes; 1981
Austria	Yes	No statutory document requirement, but required in practice	1996	No	-	-	No	25%	25%	20%	66	No	-	Yes
Belgium	Yes	No statutory document requirement, but required in practice	1994	No general rule (7:1 when lender is not subject to tax or benefits from favourable tax regime)	-	-	No	25%	15%	15%	77	No	-	No
Brazil	Yes	No statutory document requirement, but required in practice. Long disclosure documentation	1997	No	-	-	No	0%	15%	15%	27	Yes	2001	Yes; 2001
Canada	Yes	Yes, statutory requirements. Short disclosure documentation	1998	2:1	Related	1972	No	25%	25%	25%	89	Yes	1976	Yes; 1988
Chile	Yes	No statutory requirement	1997	3:1	Related	2001	No	18%	35%	30%	10	No	-	No
China	Yes	No statutory requirement, but required in practice. Short disclosure documentation	1991	No	-	-	No	10%	10%	10%	57	No	-	No
Colombia	Yes	Yes, stautory requirement. Short disclosure documentation	2004	No	-	-	No	7%	0%	40%	4	No	-	No
Czech Republic	Yes	No statutory requirement, but required in practice	1993	4:1	Related	1993	No	15%	15%	25%	66	No	-	Economic substance rule; 2005
Denmark	Yes	Yes, statutory requirement. Short disclosure documentation	1998	4:1	Total	1999	No	28%	30%	30%	68	Yes	1995	No; specific rules for certain situations
Estonia	n/a	n/a	-	No	-	-	No	0%	0%	15%	30	Yes	2000	Yes; 2002
Finland	Yes	No statutory requirement, but required in practice	-	No	-	-	No	28%	0%	28%	61	Yes	1993	Economic substance rule
France	Yes	No statutory requirement, but required in practice	1996	1.5:1	Related	1979	No	25%	16%	33%	105	Yes	1980	Yes; 1941
Germany	Yes	Yes, statutory requirements	1983	1.5:1	Related	1994	No	20%	35%	20%	76	Yes	1972	No
Greece	Yes	No statutory requirement	1994	No	-	-	No	0%	35%	20%	33	No	-	No
Hungary	Yes	Yes, statutory requirements	1992	3:1	Total	1993	No	20%	0%	0%	58	Yes	1997	Yes
Iceland	Yes	No document requirements	n/a	No	-	-	No	15%	0%	0%	26	No	-	Yes; 1971
India	Yes	Yes, statutory requirements. Long disclosure documentation	2004	No	-	-	No	0%	20%	20%	65	No	-	No
Indonesia	Yes	Yes, statutory requirements. Short disclosure documentation	1984	No	-	-	No	20%	20%	20%	55	Yes	1995	No
Ireland	Yes	No statutory requirement	n/a	No	-	-	No	20%	20%	20%	42	No	-	Yes; 1989

Table A1.1 Key anti-avoidance rules and withholding taxes, 2005 *(continued)*

	Transfer pricing legislation			Rules against debt manipulation				Withholding tax rates (non-treaty countries)				CFC rule		GAAR
	Legislation exists	Document requirements	Year of introduction	Debt to equity ratio	Type of debt	Year of introduction	Interest capping rule	Dividend	Interest	Royalties	Number of tax treaties	CFC rule	Year of introduction	
Israel	Yes	Yes, statutory requirement. Short disclosure documentation (long disclosure documentation upon request from tax authority)	2002	No	-	-	No	25%	25%	25%	37	Yes	2000	Yes
Italy	Yes	No statutory requirement, but required in practice. Short disclosure documentation	1988	4:1	Related	2004	No	27%	27%	23%	72	Yes	2000	Yes; 1997
Japan	Yes	No statutory requirement but required in practice. Short disclosure documentation	1986	3:1	-	1992	No	20%	20%	20%	44	Yes	1978	No
Korea	Yes	Yes, stautory requirements. Long disclosure documentation	1996	3:1	Related	2000	No	25%	25%	25%	60	Yes	1996	Economic substance rule; 1990
Latvia	Yes	No statutory requirement, but required in practice. Short disclosure documentation	n/a	4:1	Total	2003	No	10%	10%	15%	32	No	-	No
Luxembourg	Yes	No statutory requirement, but required in practice	2005	5.7:1	Related	n/a	No	20%	0%	0%	43	No	-	Yes; 1948
Malaysia	Yes	No statutory requirement, but required in practice. Short disclosure documentation	2003	No	-	-	No	0%	15%	10%	51	No	-	Yes; 1967
Mexico	Yes	Yes, statutory requirements. Long disclosure documentation	1996	3:1	Total	2005	No	0%	30%	30%	27	Yes	1997	No
Netherlands	Yes	Yes, statutory requirements. Short disclosure documentation	2002	3:1	Total	2004	No	25%	0%	0%	72	No	-	Yes; 1987
New Zealand	Yes	No statutory requirement, but required in practice. Short disclosure documentation	1997	3:1	Total	1996	No	30%	15%	15%	31	Yes	1988	Yes; 1974
Norway	Yes	No statutory requirement, but required in practice	1999	No	-	-	No	25%	0%	0%	79	Yes	1992	Economic substance rule
Poland	Yes	Yes, statutory requirements. Short disclosure documentation	1992	3:1	Total	1999	No	19%	20%	20%	69	No	-	No
Portugal	Yes	Yes, statutory requirements. Short disclosure documentation	2002	2:1	Total	1996	No	25%	25%	15%	41	Yes	1995	No
Russia	Yes	No statutory requirement, but required in practice	1999	3:1	Related	2002	No	15%	20%	20%	66	No	-	No
Saudi Arabia	n/a	-	-	n/a	-	-	No	5%	5%	15%	1	No	-	Yes
Singapore	No	-	-	No	-	-	No	0%	15%	10%	48	No	-	Yes; 1988
Slovak Republic	Yes	No statutory requirement, but required in practice	1993	No (abolished in 2004)	-	-	No	0%	19%	19%	52	No	-	Yes
Slovenia	Yes	n/a	2005	4:1	Related	2005	No	25%	25%	25%	41	No	-	Yes
South Africa	Yes	No statutory requirement, but required in practice. Short disclosure documentation	1995	3:1	Related	2005	No	0%	0%	12%	56	Yes	1997	No
Spain	Yes	No statutory requirement, but required in practice	1997	3:1	Related	1992	No	15%	15%	25%	47	Yes	1994	Yes; 2003
Sweden	Yes	No statutory requirement, but required in practice	1928	No	-	-	No	30%	0%	0%	75	Yes	1990	Yes; 1995
Switzerland	Yes	No statutory requirement, but required in practice	n/a	6:1 recommendation but depends on asset class	Total	1962	No	35%	35%	0%	67	No	-	Yes; 1962
Turkey	No	-	-	2:1 or 3:1	Related	n/a	No	10%	0%	25%	54	No	-	Yes; 1980
United Kingdom	Yes	Yes, statutory requirements	1999	1:1	Total	1988	No	0%	20%	22%	108	Yes	1984	No
United States	Yes	Yes, statutory requirements. Short disclosure documentation	1968	1.5:1	Total	1989	50% of EBITDA	30%	30%	30%	55	Yes	1962	No

Table A1.2 Key anti-avoidance rules and withholding taxes, 2014

	Transfer pricing legislation			Rules against debt manipulation				Withholding tax rates (non-treaty countries)				CFC rule		GAAR
	Legislation exists	Document requirements	Year of introduction	Debt to equity ratio	Type of debt	Year of introduction	Interest capping rule	Dividend	Interest	Royalties	Number of tax treaties	CFC rule	Year of introduction	
Argentina	Yes	Yes, statutory requirement. Long discloure documentation (requirement to file an annual transfer price study of all related transactions)	1998	2:1	Related	1999	No	35%	35%	32%	15	Yes	1999	Economic substance rule
Australia	Yes	No statutory requirement in law , but required in practice. Short disclosure documentation	1981	3:1 above AUD 250,000 (since 2014, 1.5:1 in general and 15:1 to 20:1 for non-bank financial entities; threshold increased to AUD 2m)	Total	1987	No	30%	10%	30%	44	Yes	1990	Yes; 1981
Austria	Yes	No statutory document requirement, but required in practice	1996	No formal rule (4:1 usually accepted)	-	-	No	25%	25%	20%	85	No	-	Yes
Belgium	Yes	No statutory document requirement, but required in practice	1994	No general rule (5:1 w hen lender is not subject to tax or benefits from favourable tax regime)	-	-	No	25%	25%	25%	84	No	-	Yes; 2012
Brazil	Yes	No statutory document requirement, but required in practice. Long disclosure documentation	1997	2:1 (0.3:1 w hen lender in tax favourable jurisdiction)	Related	2010	No	0%	15%	15%	28	Yes	2001	Yes; 2001
Canada	Yes	Yes, statutory requirements. Short disclosure documentation	1998	1.5:1	Related	1972	No	25%	25%	25%	92	Yes	1976	Yes; 1988
Chile	Yes	No statutory requirement	1997	3:1	Related	2001	No	35%	35%	30%	24	No	-	No
China	Yes	No statutory requirement, but required in practice. Long disclosure documentation	1991	Arm's-length thin capitalisation. Since 2014, 2:1 (5:1 for financial institutions)	Related	2008	No	10%	10%	10%	98	Yes	2008	Yes; 2008
Colombia	Yes	Yes, stautory requirement. Short disclosure documentation	2004	3:1	Total	2013	No	33%	33%	33%	4	No	-	No
Czech Republic	Yes	No statutory requirement, but required in practice	1993	4:1 (6:1 for banks and insurance companies)	Related	1993	No	15%	15%	15%	81	No	-	Economic substance rule; 2005
Denmark	Yes	Yes, statutory requirement. Short disclosure documentation	1998	4:1 above DKK 10 m in combination w ith EBIT rule	Total	1999	80% of EBIT for net financial expenses (total debt) above DKK 21.3m	27%	25%	25%	76	Yes	1995	No; specific rules for certain situations
Estonia	Yes	Yes, statutory requirements. Long disclosure documentation	2007	No	-	-	No	0%	0%	10%	50	Yes	2000	Yes; 2002
Finland	Yes	Yes, statutory requirements	2007	No	-	-	25% of EBITDA for net interest expenses above EUR 0.5m, related debt (from 2014)	20%	0%	20%	73	Yes	1993	Economic substance rule
France	Yes	No statutory requirement, but required in practice	1996	1.5:1 in combination w ith 25% EBITDA and interest paid to interest received 1:1	Related	1979	No	30%	0%	33%	122	Yes	1980	Yes; 1941
Germany	Yes	Yes, statutory requirements	1983	Abolished in 2008, replaced by an interest ceiling rule	-	1994	30% of taxable EBITDA for interest expenses above EUR3m, total debt	25%	25%	15%	88	Yes	1972	Yes; 2008
Greece	Yes	Yes, statutory requirements	1994	3:1; replacecd by an interest rule in 2014	Related	n/a	from 2017: 30% of EBIDTA above EUR 3m; gradual phasing in over 2014-17	10%	33%	25%	53	Yes from 2014	2014	Yes; 2014
Hungary	Yes	Yes, statutory requirements	1992	3:1	Total	1993	No	0%	0%	0%	73	Yes	1997	Yes
Iceland	Yes	Yes, document requirements. Short disclosure documentation for large firms	n/a	No	-	-	No	20%	10%	20%	37	Yes	2009	Yes; 1971
India	Yes	Yes, statutory requirements. Long disclosure documentation	2004	No	-	-	No	0%	20%	40%	85	No	-	No
Indonesia	Yes	Yes, statutory requirements. Long disclosure documentation	1984	No	-	-	No	20%	20%	20%	65	Yes	1995	No
Ireland	Yes	Yes, statutory requirements	n/a	No	-	-	Interest paid to a non-resident parent (non-treaty) that ow es at least 75% of the entity is reclassified as	20%	20%	20%	65	No	-	Yes; 1989

Table A1.2 Key anti-avoidance rules and withholding taxes, 2014 *(continued)*[1]

	Transfer pricing legislation			Rules against debt manipulation				Withholding tax rates (non-treaty countries)				CFC rule		GAAR
	Legislation exists	Document requirements	Year of introduction	Debt to equity ratio	Type of debt	Year of introduction	Interest capping rule	Dividend	Interest	Royalties	Number of tax treaties	CFC rule	Year of introduction	
Israel	Yes	Yes, statutory requirement. Short disclosure documentation (long disclosure documentation upon request from tax authority)	2002	No	-	-	No	25%	25%	25%	95	Yes	2000	Yes
Italy	Yes	No statutory requirement, but required in practice. Short disclosure documentation	1988	No	-	-	30% EBITDA, spare EBITDA capacity can be carried-forward without time limit.	20%	20%	23%	90	Yes	2000	Yes; 1997
Japan	Yes	No statutory requirement but required in practice. Short disclosure documentation	1986	3:1	Related	1992	Interest payments above 50% of adjustable taxable income is not deductible	20%	20%	20%	50	Yes	1978	No
Korea	Yes	Yes, stautory requirements. Long disclosure documentation	1996	3:1	Related	2000	No	22%	22%	22%	80	Yes	1996	Economic substance rule; 1990
Latvia	Yes	Yes, statutory requirements. Long disclosure documentation	n/a	4:1	Total	2003	No	10%	10%	15%	55	No	-	No
Luxembourg	Yes	No statutory requirement, but required in practice	2005	5.7:1	Related	n/a	No	15%	0%	0%	55	No	-	Yes; 1948
Malaysia	Yes	No statutory requirement, but required in practice. Short disclosure documentation	2003	No	-	-	No	0%	15%	10%	75	No	-	Yes; 1967
Mexico	Yes	Yes, statutory requirements. Long disclosure documentation	1996	3:1	Total	2005	No	0%	30%	30%	43	Yes	1997	No
Netherlands	Yes	Yes, statutory requirements. Long disclosure documentation	2002	Abolished in 2013	-	2004	"Excessive" interest payment on total debt is not allowed under certain circumstances	15%	0%	0%	93	No	-	Yes; 1987
New Zealand	Yes	No statutory requirement, but required in practice. Short disclosure documentation	1997	60% debt-to-total-assets rule (only if worldwide groups' debt/asset ratio above 110%)	Total	n/a	No	30%	15%	15%	37	Yes	1988	Yes; 1974
Norway	Yes	No statutory requirement, but required in practice. Short disclosure documentation	1999	No	-	-	Since 2014, 30% EBITDA (related debt)	25%	0%	0%	89	Yes	1992	Economic substance rule
Poland	Yes	Yes, statutory requirements. Short disclosure documentation	1992	3:1	Total	1999	No	19%	20%	20%	81	No	-	No
Portugal	Yes	Yes, statutory requirements. Short disclosure documentation	2002	Abolished in 2013, replaced by interest rule	-	1996	from 2017: 30% of EBIDTA above EUR 1m; gradual phasing in over 2014-17	25%	25%	25%	59	Yes	1995	No
Russia	Yes	No statutory requirement, but required in practice	1999	3:1	Related	2002	No	15%	20%	20%	79	No	-	Economic substance rule; 2006
Saudi Arabia	n/a	-	-	n/a	-	-	No	5%	5%	15%	24	No	-	Yes
Singapore	Yes	No statutory requirement, but required in practice. Short disclosure documentation	2006	No	-	-	No	0%	15%	10%	69	No	-	Yes; 1988
Slovak Republic	Yes	Yes, statutory requirements	1993	No	-	-	No	0%	19%	19%	66	No	-	Yes
Slovenia	Yes	No statutory requirement, but required in practice. Short disclosure documentation	2005	4:1	Related	2005	No	15%	15%	15%	49	No	-	Yes
South Africa	Yes	No statutory requirement, but required in practice. Short disclosure documentation	1995	Arm's length principle	Related	2005	No	15%	0%	15%	49	Yes	1997	Yes; 2006
Spain	Yes	Yes, statutory requirements	1997	Abolished in 2012; replaced by interest rule	-	1992	30% EBIDTA above EUR 1m	21%	21%	25%	80	Yes	1994	Yes; 2003
Sweden	Yes	Yes, statutory requirements	2007	No	-	-	Interest deductibility to affiliated entities is disallowed under certain conditions	30%	0%	0%	74	Yes	1990	Yes; 1995
Switzerland	Yes	No statutory requirement, but required in practice	n/a	6:1 recommendation but depends on asset class	Total	1962	No	35%	35%	0%	88	No	-	Yes; 1962
Turkey	Yes	Yes, statutory requirements. Short disclosure documentation	2007	3:1	Related	-	No	10%	15%	20%	80	Yes	2006	Yes; 1980
United Kingdom	Yes	Yes, statutory requirements	1999	Worldwide debt cap for large groups when the UK-entity net debt exceeds 75% of the worldwide gross debt	Total	1988	Interest deducibility based on arm's length principle.	0%	20%	20%	122	Yes	1984	No
United States	Yes	Yes, statutory requirements. Short disclosure documentation	1968	1.5:1 combined with a 50% EBITDA rule	Total	1989	50% EBITDA	30%	30%	30%	58	Yes	1962	Economic substance rule; 2011

1. Poland plans to introduce a GAAR by the end of 2016.

Table A1.3 Detailed country classification

	2005						2014					
	Transfer pricing strictness[1]	Debt and interest rules	CFC rule	GAAR	Withholding taxes and tax treaties	**Total**	Transfer pricing strictness	Debt and interest rules	CFC rule	GAAR	Withholding taxes and tax treaties	**Total**
Argentina	2	2	1	1	2	**8**	2	2	1	1	2	**8**
Australia	2	2	1	1	2	**8**	2	2	1	1	2	**8**
Austria	1	0	0	1	1	**3**	1	0	0	1	1	**3**
Belgium	1	0	0	0	0	**1**	1	0	0	1	1	**3**
Brazil	2	0	1	1	1	**5**	2	2	1	1	1	**7**
Canada	2	2	1	1	1	**7**	2	2	1	1	1	**7**
Chile	0	1	0	0	2	**3**	0	1	0	0	2	**3**
China	2	0	0	0	0	**2**	2	2	1	1	0	**6**
Colombia	2	0	0	0	1	**3**	2	2	0	0	2	**6**
Czech Rep.	1	1	0	1	0	**3**	1	1	0	1	0	**3**
Denmark	2	1	1	0	1	**5**	2	1	1	0	1	**5**
Estonia	2	0	1	1	1	**5**	2	0	1	1	1	**5**
Finland	1	0	1	1	0	**3**	2	2	1	1	0	**6**
France	1	2	1	1	1	**6**	1	2	1	1	1	**6**
Germany	1	2	1	0	1	**5**	1	2	1	1	1	**6**
Greece	0	0	0	0	1	**1**	1	2	1	1	1	**6**
Hungary	1	2	1	1	0	**5**	1	2	1	1	0	**5**
Iceland	0	0	0	1	1	**2**	2	0	1	1	1	**5**
India	2	0	0	0	0	**2**	2	0	0	0	0	**2**
Indonesia	2	0	1	0	0	**3**	2	0	1	0	0	**3**
Ireland	0	0	0	1	1	**2**	1	1	0	1	0	**3**
Israel	2	0	1	1	2	**6**	2	0	1	1	1	**5**
Italy	2	1	1	1	1	**6**	2	2	1	1	1	**7**
Japan	2	2	1	0	1	**6**	2	2	1	0	1	**6**
Korea	2	1	1	1	1	**6**	2	1	1	1	1	**6**
Latvia	1	1	0	0	1	**3**	2	1	0	0	0	**3**
Luxembourg	1	1	0	1	1	**4**	1	1	0	1	0	**3**
Malaysia	2	0	0	1	1	**4**	2	0	0	1	0	**3**
Mexico	2	2	1	0	1	**6**	2	1	1	0	1	**5**
Netherlands	2	2	0	1	0	**5**	2	1	0	1	0	**4**
New Zealand	1	2	1	1	1	**6**	2	2	1	1	1	**7**
Norway	1	0	1	1	0	**3**	2	2	1	1	0	**6**
Poland	2	2	0	0	0	**4**	2	2	0	0	0	**4**
Portugal	2	2	1	0	2	**7**	2	2	1	0	1	**6**
Russia	1	1	0	0	0	**2**	1	1	0	1	0	**3**
Saudi Arabia	NA	0	0	1	1	**NA**	NA	0	0	1	1	**NA**
Singapore	2	0	0	1	1	**4**	2	0	0	1	0	**3**
Slovak Rep.	1	0	0	1	1	**3**	1	0	0	1	0	**2**
Slovenia	2	1	0	1	2	**6**	2	1	0	1	1	**5**
South Africa	2	1	1	0	0	**4**	2	1	1	1	1	**6**
Spain	1	1	1	1	1	**5**	1	2	1	1	1	**6**
Sweden	1	0	1	1	0	**3**	1	1	1	1	0	**4**
Switzerland	1	1	0	1	1	**4**	1	1	0	1	1	**4**
Turkey	2	2	0	1	0	**5**	2	1	1	1	0	**5**
United Kingdom	1	2	1	0	0	**4**	1	1	1	0	0	**3**
United States	2	2	1	0	1	**6**	2	2	1	1	1	**7**

1. For Estonia, Slovenia, Singapore and Turkey, transfer pricing rules are from 2006 rather than 2005. For Latvia, they are from 2007.