LOYENS & LOEFF

Taxation of cross-border investments in and from CEE countries 2017

Including comparison with Loyens & Loeff home jurisdictions (the Netherlands, Luxembourg, Belgium, Switzerland), Malta and Cyprus

Introduction

Loyens & Loeff

Loyens & Loeff is a leading firm and a natural choice when selecting a legal and tax partner if you are doing business in or from our home markets of the Netherlands, Belgium, Luxembourg and Switzerland. Our expertise includes the tax and legal aspects of mergers and acquisitions, restructurings, IPOs, structured and project financing, real estate investments, leasing transactions, intellectual property rights and much more. With a hundred-year track record of international (corporate) tax advice, today our team consists of high-level specialists including 350 international tax lawyers and 500 corporate/regulatory lawyers working from our offices in all the major global financial centres.

Through this integrated office network, you have access to Loyens & Loeff's full-service legal expertise across multiple time zones, complemented by our many country desks, each of which boasts specialists experienced in structuring investments around the world. And our reach goes further still, leveraging strong, long-standing relationships with other leading independent law firms and tax consultants in Europe, the United States, Russia and beyond.

This makes Loyens & Loeff the logical choice for large and medium-size enterprises, as well as banks and other financial institutions that operate on the international stage. The evidence is clear, with Loyens & Loeff winning the Who's Who Global Corporate Tax Firm 2016 Award and coming out top for tax advice in the 2015 editions of Legal 500, Chambers Global, Chambers Europe and World Tax.

A team for Central and Eastern Europe (CEE)

Since the accession of many new countries to the European Union, there has been an increase in the flow of inbound and outbound investments across these new member states. In order to establish a clearer picture of developments in the CEE region, Loyens & Loeff in 2002 created a dedicated team of expert attorneys and tax advisers, each with extensive experience in advising clients on transactions specifically relating to the CEE market.

The CEE team has since been involved in many investment structures taking place in the newer EU countries, in no small part due to the fact that the Netherlands and Luxembourg often provide an ideal location for (intermediary) holdings or financing companies.

A comparison of CEE countries

The CEE team has developed and maintained this concise and practical publication so tax practitioners can compare the main features of the tax regimes of our home markets and the most recent members of the European Union (listed below). It is intended as a tool for an initial comparison, with specific reference to holding companies that may also engage in financing and/or licensing activities, taking into account the impact of EU GAAR. This document should not be used as a substitute for obtaining local tax advice.

We hope that this publication will find its permanent place on the desks of practitioners involved in international tax planning in relation to these countries, and we gratefully acknowledge the contributions of each firm (listed below) who provided information on the various jurisdictions.

Additional information regarding the regimes in the selected jurisdictions may be obtained by contacting the undersigned or the contributing firms via their websites shown below.

Belgium	Loyens & Loeff	loyensloeff.com
Bulgaria	Djingov, Gouginski, Kyutchukov & Velichkov	dgkv.com
Croatia	LeitnerLeitner	leitnerleitner.hr
Cyprus	Elias Neocleous & Co LLC	neo.law
Czech Republic	White & Case LLP	whitecase.com
Estonia	Sorainen	sorainen.ee
Hungary	Jalsovszky	jalsovszky.com
Latvia	Sorainen	sorainen.lv
Lithuania	Sorainen	sorainen.lt
Luxembourg	Loyens & Loeff	loyensloeff.com
Malta	Francis J. Vassallo & Associates Limited	fjvassallo.com
Poland	Dentons Europe Dąbrowski i Wspólnicy sp. k.	dentons.com
Romania	Nestor Nestor Diculescu Kingston Petersen	nndkp.com
Slovakia	PRK Partners s.r.o.	prkpartners.sk
Slovenia	LeitnerLeitner	leitnerleitner.com
Switzerland	Loyens & Loeff	loyensloeff.com
The Netherlands	Loyens & Loeff	loyensloeff.com

The information contained in this publication is based on the applicable laws in effect as per 1 January 2017.

Yours sincerely,
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LOYENS & LOEFF

Part II

Bulgaria, Czech Republic, Hungary, Poland, Romania

1. Capital tax / stamp duty / real estate transfer tax / real estate tax

Bulgaria

Capital tax

There is no capital contribution tax in Bulgaria.

Stamp duty

An insignificant amount of state fees is due upon the registration in the commercial register of a newly incorporated company, announcement of corporate documents (by-laws, annual financial statements, etc.) and any subsequent corporate changes, including (i) a new shareholder in a limited liability company, or (ii) the increase of the capital of any commercial company. Transfer of shares in a limited liability company requires notarisation of the content and signatures on the transfer agreement which triggers payment of notary fees. Notary fees also apply for in-kind capital contributions.

Real estate transfer tax

Transfer of real estate or establishment of limited rights in rem over real estate is subject to municipal transfer tax of between 0.1% to 3.0%, chargeable on the higher between:

- the agreed purchase price; and
- the tax evaluation of the asset, determined by the municipality.

Czech Republic

Capital tax

There is no capital contribution tax in the Czech Republic.

Stamp duty

The registration of a new company in the commercial register and subsequent changes, including the change of a shareholder or increase / decrease of registered capital, trigger a minor stamp duty (CZK 2,000 – 12,000).

If a notarial deed is required (e.g. for establishment of a company, increase / decrease of registered capital etc.), notarial fees are calculated based on certain criteria (e.g. registered capital) and may vary significantly.

Real estate transfer tax (renamed to Tax on the acquisition of real estate as of 2014)

Acquisition of real estate assets is, generally, subject to the real estate transfer tax of 4%. As of 1 November 2016, the tax is generally payable by the transferee (previously, it was generally payable by the transferor).

Transfers of shares in a real estate company are not taxable.

Hungary

Capital tax

There is no capital (contribution) tax in Hungary.

Stamp duty

Stamp duty is levied on the registration of any changes made to the data of the Company Register, including transformations (incorporation of companies is not subject to stamp duty).

Stamp duty is, for instance, levied on an amount of:

- HUF 100,000 (approx. EUR 325) in the case of the registration of a private stock company;
- HUF 600,000 in the case of registration of a European company;
- HUF 500,000 stamp duty applies for the transformation of a private stock company into public stock company;HUF 50,000 in the case of the registration of a branch office; and
- HUF 50,000 in the case of registering a representative office;
- Fixed registration duty of HUF 15,000 applies for further amendments of the AoA.

Poland

Capital tax

In general, a capital contribution to a Polish company is subject to tax at the effective rate of 0.5%. The tax base is the value of share capital increase resulting from the contribution; the share premium is not subject to tax.

Increase of a company's share capital is not subject to tax if:

- as a result of the contribution the company acquires a majority of voting rights in another company (or the acquiring company that prior to the contribution already holds majority voting rights in the acquired company receives additional voting rights), or
- the object of the contribution is an enterprise or an organised division of the company.

Mergers of companies and transformation of a limited liability company into a joint stock company (and vice versa) are not subject to transfer tax. Conversion of a company into partnerships may in some cases be subject to tax.

Romania

Capital tax

There is no capital contribution tax in Romania.

Stamp duty

As of 1 February 2017 companies are no longer required to pay registration fees or other fees regarding the registration of new elements during the existence of a company.

Real estate transfer tax

Real estate transfer has to be done pursuant to agreements authenticated by public notary. There is no real estate transfer tax; however, real estate transfers are subject to notary fees ranging from 2.2% (but not less than RON 150) on the values up to RON 15,000, to 0.44% plus RON 5,080 on the values exceeding RON 600,001, depending on the (i) purchase price or (ii) the evaluation of the asset determined by the public notary authority (whichever is the greater). Furthermore, a 0.5% registration fee of the real estate with the Land Book is to be paid by the buyer.

Bulgaria

However, this is not relevant upon capital contributions, because if transferred as in-kind contribution to the capital of a Bulgarian company, such a transfer will be exempt from such municipal tax. Transfer of going concern is also not subject to such tax.

Real estate tax

The real estate tax for non-residential real estate assets owned by legal entities is calculated on the higher value between their book value and their tax evaluation and the real estate tax for residential real estate assets owned by legal entities is calculated on their tax evaluation.

The rate of the tax is determined by the respective Municipal Council and may vary in the range between 0.01% and 0.45%. In case right of use is granted over the real estate asset, tax obligor for the real estate tax is the acquirer of the limited right in rem. Tax obligor for real estates, owned by the State or a municipality, is the person that manages the real estate.

Pursuant to a new rule effective as of 1 January 2017, the concessionaire shall be the tax obligor if a concession has been awarded.

Czech Republic

Real estate tax

The real estate tax is payable by the owner based on the area of land or the size of a building taking into account the attractiveness of the location. The tax rate is, generally, defined as a fixed amount per square metre.

The real estate tax compliance is somewhat burdensome but the tax itself does not usually represent a material cost.

CZK 1 = € 0.03701 (2 January 2017)

It should be noted that the new civil code came into effect as of 1 January 2014. The new civil code introduced significant amendments to Czech civil law which were also reflected in the Czech tax regulation. The new regulations should be taken into account when doing business in the Czech Republic.

Hungary

If the registered capital of the company is changed, the stamp duty is levied at 40% of the incorporation fees applicable for the given company type (see above).

Real estate transfer tax

The transfer of property is subject to transfer tax payable by the purchaser, calculated on the market value of the property transferred.

The real estate transfer tax is 4% up to HUF 1 billion (approx. EUR 3,200,000), while the rate on the excess is only 2%. These are altogether capped at HUF 200 million (approx. EUR 733,000) per real estate.

Real estate traders, funds, REITs and leasing companies may be subject to a flat rate 2% transfer tax under certain conditions.

The acquisition of a building site may be exempt from transfer tax if the purchaser builds a residential building on the real property within four years.

Transfer tax is not only levied on the acquisition of real estate but also on the acquisition of shares in a real estate company, if:

- the shares obtained (either by the acquirer alone or altogether with close relatives or its related companies, as the case may be) reach 75% of all the shares.

Poland

Stamp duty

The sale of shares and partnership interests in Polish entities is subject to 1% tax, which is payable by the buyer. Sale of shares in joint stock companies may be exempt from the 1% tax under certain conditions, e.g. if a brokerage house acts as intermediary in the transaction.

In general, the granting of loans is subject to 2% transfer tax.

There are exemptions for:

- loans granted by foreign entities that carry on activities in the area of granting bank loans and regular loans;
- loans recognised as financial services exempt from VAT; and
- shareholder loans (no minimum shareholding is required).

Nevertheless, loans granted to a partnership by its partners are always subject to 0.5% tax (such loans cannot benefit from the exemption).

Real estate transfer tax

Sale of real estate is subject to 2% transfer tax only if the transaction is outside the scope of VAT or is exempt from VAT.

Romania

Real estate tax

A local tax on buildings is payable by the owner. The tax is levied on the building's taxable value (which could be the book value or the value determined based on an appraisal report), at rates varying between 0.08% and 0.2% for residential buildings, between 0.2% and 1.3% in the case of non-residential buildings and at 0.4% in the case of buildings used for the purpose of agricultural activities. If the building has not been appraised during the past three years, the rate is of 5%.

The annual tax is determined based on the building's taxable value as of 31 December of the previous year, being valid throughout the following year.

A local tax on land is payable by the owners of land. The maximum rate is RON 2.0706 per m^2 for land located in urban areas, while for land located outside urban areas, the rate per m^2 is up to RON 0.01456.

RON 1 = € 0.21903 (1 January 2017)

Bulgaria	Czech Republic	Hungary	Poland	Romania
Where a concession for extraction has been awarded, the tax obligor shall be the owner, except for the cases where the concessionaire has been granted with the right of use of the real estate. Real estate with tax evaluation not higher than BGN 1,680 (approx. EUR 860) is exempted from real estate tax. BGN 1 = € 0.511292 (fixed rate)		A real estate company is a business association that: - owns real estate located in Hungary for more than 75% of the overall assets (liquid assets, financial receivables, loans, deferred income and accrued expenses excluded), taking into account the book values of the assets as registered in the balance sheet at the balance sheet date; or - has a direct or indirect share of at least 75% in a business association that owns real estate located in Hungary for more than 75% of the overall assets (liquid assets and financial receivables excluded), taking into account the book values of the assets as registered in the balance sheet at the balance sheet date. The transfer tax is levied on the market value of the real estate, prorated to the shares being acquired. On certain conditions, the transfer of real estate or shares in real estate companies between related parties may be exempt from transfer tax.	**Real estate tax** The real estate tax generally applies to the owners, perpetual usufructuaries and freeholders of properties. The tax applies to (i) land, (ii) buildings or parts thereof and (iii) constructions or parts thereof connected with business activities. RET is payable to local authorities, which set RET rates within the statutory maximum rates. The maximum RET rates in 2017: - on land used for business activities – PLN 0.89 per m^2 (i.e. PLN 9,000 per ha); - on buildings or parts thereof used for business activities – PLN 22.66 per m^2 of usable surface; - on constructions or parts thereof used for business activities – 2% tax on the initial value of a construction, adopted for tax depreciation purposes. PLN 1 = € 0.2382 (14 June 2017).	

Bulgaria	Czech Republic	Hungary	Poland	Romania
		Building tax It may be imposed by local municipalities. It is an annual levy on the owners registered as such as of 1 January of the given tax year. The legislation fixes the upper limit of the rate at HUF 1,100 (approx. EUR 3.5) / m^2 or at 3.6% of the adjusted market value (= 50% of the market value) of the building. **Tax on land** The owner of land situated in the territory of an urban area may be taxed by the relevant local municipalities. The upper limit of the tax is fixed at HUF 200 (approx. EUR 0.6) /m^2 or at 3% of the adjusted market value (= 50% of the market value) of the land. HUF 1 = € 0.0032 (↓ 2017)		

2. Corporate income tax (CIT)

2.1 CIT and wealth taxes

Bulgaria

The general CIT rate in 2017 is 10%.

Resident companies are taxed on their worldwide income. The taxable base is computed on the basis of accounting profit by adjusting it for tax purposes.

Collective investment schemes that have been admitted to public offering in the Republic of Bulgaria, national investment funds and special purpose investment companies shall be exempt from CIT.

Alternative final corporate taxes are levied on some categories of expenses. The taxed expense, when properly documented, and the tax are deductible for profit tax purposes.

Out-of-pocket expenses related to business activity, social expenses, rendered in-kind expenses (including expenses for contributions for voluntary health and social security, 'Life' insurance and certain expenses for food vouchers) and expenses rendered in-kind related to company assets used for private purposes by company employees, are subject to the 10% alternative final corporate tax.

Wealth taxes

There is no wealth tax in Bulgaria.

Czech Republic

The general CIT rate is 19% for tax periods from 2010 onwards.

A special rate of 5% applies to taxable profits of certain investment funds (generally retail funds or funds investing in certain securities). Also a special rate of 0% applies to taxable profits of pension funds. Domestic source income subject to a final withholding tax is not included in the CIT base.

Resident companies (i.e. legal entities seated or having a place of effective management in the Czech Republic) are taxed on their worldwide income. The tax base is computed based on the accounting profit based on the Czech accounting standards. The accounting profit is then adjusted for tax purposes.

Wealth taxes

There is no wealth tax in the Czech Republic.

Hungary

The general CIT rate is flat 9%.

Licensing incentive

50% of the profit from royalty revenues may be deducted from the CIT base. The amount of the reduction may not exceed 50% of the pre-tax profits of the given tax year.

Minimum tax base

If both the pre-tax profit and the tax base of an entity are less than the 'minimum tax base', i.e. 2% of the entity's total revenues and are adjusted by certain items (e.g. income attributable to a permanent establishment abroad, certain percentage of shareholder loans), the minimum tax base will apply, unless the taxpayer chooses to provide a special declaration detailing its cost and income structure to the tax authority proving that its general tax base is accurate. This rule does not apply in the pre-company period and in the first tax year.

Poland

The general CIT rate is 19%. A company is regarded a Polish tax resident if it has either its registered office or place of management in Poland. A Polish resident company is subject to CIT on its worldwide income.

Non-resident companies are subject to CIT only on income from Polish sources (i.e. earned in Poland), unless a double tax treaty (DTT) provides otherwise.

Income of Polish investment and pension funds, as well as Polish-sourced income of foreign investment and pension funds fulfilling certain conditions, may be exempt from CIT in Poland.

Wealth taxes

There is no wealth tax in Poland.

Romania

The general CIT rate is 16%.The taxable base for CIT purposes is determined by adjusting accounting profits for non-deductible expenses and non-taxable income.

If not expressly declared in the annual tax return that they will be taxed with corporate tax, expenses rendered in-kind, related to company assets used for private purposes by company employees shall be taxed as in-kind income for the benefiting employees.

Wealth taxes

There is no wealth tax in Romania.

Bulgaria	Czech Republic	Hungary	Poland	Romania
		Foreign tax credit In the absence of a treaty, unilateral relief is provided by way of a credit for income taxes paid abroad. Unilateral credit relief will be determined separately for each item of foreign-source income. The credit will be limited to 90% of the foreign tax and cannot exceed the Hungarian tax burden on the relevant income. *Local business tax* Hungarian companies are subject to local business tax, at a maximum rate of 2%. The tax base is fundamentally the turnover, less costs of goods sold and cost of mediated services (which are subject to certain limitations) and costs of materials, subcontractor fees and direct R&D costs. Interest and royalty income are not subject to local business tax. **Wealth taxes** There is no wealth tax in Hungary.		

2.2 Dividend regime (participation exemption)

Bulgaria	Czech Republic	Hungary	Poland	Romania
National Dividends received from other resident companies are exempt from income tax, except for dividends distributed by REITs, as well as cases qualifying as hidden distribution of profit. *International* Inbound dividends derived by a Bulgarian resident are part of the taxable base of the receiving company and taxed at the normal CIT rate. Dividends distributed by foreign entities that are tax residents of an EU-member state, or a country, which is a party to the Agreement for the European Economic Area, are exempt from CIT except for cases qualifying as hidden distribution of profit and except for dividends from distribution of profits by EU or EEA based subsidiaries as far as such distributed amounts are expenses deductible for tax purposes at the level of the distributing subsidiary and/or lead to decrease of its taxable financial result regardless of how these amounts have been booked accounting-wise at the level of the distributing company.	*National* A domestic distribution of dividends is exempt from taxation if the recipient is a company of a qualifying legal form, beneficial owner and holds at least 10% of the registered capital of the distributing company for an uninterrupted period of 12 months (this holding period can be fulfilled subsequently). Both companies must have one of the forms listed in the Parent-Subsidiary Directive or be a cooperative (družstvo). *International* Inbound dividends derived by a Czech resident company constitute a separate tax base that is subject to a 15% CIT. Moreover, dividends received and beneficially owned by a Czech resident company from an EU resident subsidiary are exempt in the Czech Republic if the recipient holds at least 10% of the registered capital of the distributing company for an uninterrupted period of 12 months (this holding period can be fulfilled subsequently). Both companies must have a specified legal form, be EU residents and be subject to tax higher than 0%.	*National and international* Dividends received by Hungarian companies either from Hungarian or from foreign (both EU and non-EU) subsidiaries are exempt from CIT (except for dividends received from CFCs) based on Hungarian domestic law. *CFC rules* See Section 5 for the definition of CFC. *CFCs undistributed profits* In certain cases, the undistributed profit of a CFC from certain income types (e.g. interest, capital payments, related party transactions) calculated under Hungarian rules (as if the CFC was a Hungarian tax resident) are considered as corporate tax base increasing items for the Hungarian CFC shareholder companies. Income from dividends received from a CFC is taxable in Hungary.	*National and international* Dividends received by a resident company from: (i) a resident company is: - CIT exempt provided that certain conditions are met (i.e. at least 10% shareholding (as an owner), holding shares for an uninterrupted period of two years (the two years' holding period does not have to be met upfront); or - subject to 19% withholding CIT if these conditions are not met; (ii) a non-resident 'privileged' (e.g. EU, EEA, Swiss) company is: - CIT exempt provided that certain conditions are met (i.e. at least 10% (for Swiss company - at least 25%) shareholding (as an owner), holding shares for an uninterrupted period of two years (the two-year holding period does not have to be met upfront); the above exemption does not apply if dividend is received as a result of liquidation of the legal entity making the payments; or	*National* Dividend payments between resident companies are subject to a 5% final withholding tax. This rate is cut down to 0% in case of a shareholding of minimum 10% maintained for at least one uninterrupted year. Dividends are tax exempt in the hands of the recipient. *International* Dividends received by a Romanian company from a non-resident company are included in the ordinary income of the recipient company and taxed at the general tax rate. However, under the domestic law, foreign-source dividends paid by a subsidiary from another EU Member State or a non-EU country with which Romania has concluded a double tax treaty, to its Romanian parent company are exempt from tax in Romania if the Romanian recipient company meets the following conditions: - it holds at least 10% of the distributing company's shares; - the holding has existed for an uninterrupted period of one year prior to the distribution date.

Bulgaria

With regard to withholding tax on inbound dividends, local entities are entitled to a tax credit for any tax on dividends levied abroad, even if no treaty exists. The tax credit is limited up to the amount of the respective Bulgarian tax on dividends and is separately determined for each country.

Impact EU GAAR

Because of the existing tax evasion rules in force having broader scope the EU GAAR was considered covered in the Bulgarian tax law with no need for amendments in that respect. Thus, no specific impact of the EU GAAR is expected.

Czech Republic

Dividends received by a Czech resident company from its subsidiary resident in Norway, Iceland or Lichtenstein are tax exempt under similar conditions.

The exemption does not apply to dividends distributed from a Czech subsidiary in liquidation (for further conditions please see Section 3.1).

The exemption can also be applied, if a Czech resident company receives dividends from a company, that:

- is a tax resident of a state that has concluded a tax treaty with the Czech Republic;
- has a legal form similar to a Czech joint stock company or a limited liability company or cooperative; and of which
- the parent-subsidiary relationship is fulfilled (10% for at least 12 months); and
- the subsidiary is subject to CIT of 12% or more.

The exemption does not apply to dividends received by a Czech parent company from its subsidiary in liquidation (irrespective of the place of seat of the subsidiary).

The participation exemption also does not apply should either the holding company or the subsidiary (regardless of tax residency) be tax exempt from CIT or similar tax, or if they choose to be tax exempt or receive similar tax advantage.

Hungary

Impact EU GAAR

Hungary's withholding tax regime is not based on the Parent-Subsidiary Directive (PSD). According to domestic regulations Hungary does not levy withholding tax on dividends (and interest or royalties) paid to foreign entities irrespective of the location of the recipient or the degree of ownership.

Similarly, the participation exemption for dividends received by Hungarian entities is not based on the PSD either, as Hungary exempts all dividends received except for dividends from CFCs.

Hungary so far did not specifically implement the PSD GAAR. However, Hungarian domestic legislation already contained GAARs and a PSD SAAR in the form of the CITA's 'dividend' definition which provides that the received dividend shall not be considered as dividend in case the contributing party deducts the respective amount from CIT as expenditure.

Poland

- CIT exempt in Poland on the basis of a tax treaty or subject to 19% CIT in Poland (with possibility to apply foreign tax credit) – if the above conditions are not met;

(iii) a non-resident 'unprivileged' company is:

- CIT exempt in Poland on the basis of a tax treaty; or
- subject to 19% CIT in Poland (with possibility to apply foreign tax credit).

Foreign tax credit

Tax credit (both direct and underlying) in respect of foreign tax withheld on dividends may also be applicable, depending on a number of requirements under both domestic rules and treaties. Based on domestic rules:

- Direct, proportional ordinary tax credit may be used when income of a Polish tax resident is taxed abroad and that income is not tax exempt in Poland.
- Additional underlying, proportional tax credit is applicable whenever a company which is a Polish tax resident holds a minimum of 75% shares in an entity taxed on its worldwide income in any treaty country outside the EU / EEA / Switzerland for an uninterrupted period of two years and there is

Romania

Until the one-year period is met, dividends are subject to tax (at 16%). In the case of dividends received from other EU Member States, such tax can be claimed back later from the state.

Impact EU GAAR

The Romanian Fiscal Code enforced on 1 January 2016, contains provisions which implemented the Parent-Subsidiary Directive GAAR word by word. The tax authorities' focus on scrutinising the applicability of tax exemptions under Parent-Subsidiary Directive could increase.

Bulgaria	Czech Republic	Hungary	Poland	Romania
	As of 1 July 2017, the participation exemption also does not apply to received dividends in case these were tax deductible at the level of the subsidiary. The rule should apply to dividends received as of 1 January 2017. **Impact EU GAAR** The Czech Tax Law will not be amended as to explicitly include the EU GAAR. Czech tax law is generally considered to already include sufficient GAAR (see below). In the Czech Tax Law the following general concepts of combating abuse of tax rules apply: (i) substance over form principle; and (ii) abuse of law concept. The substance over form principle was included in the tax law from 1992, i.e. for its entire modern existence. Pursuant to this rule, the Tax Authorities are entitled to assess tax based on factual merits of an operation (actual intentions of the parties) regardless of how the operation is organised from a formal legal perspective. The case law gradually limited the actual usage of this principle in favour of the abuse of law concept.		a tax treaty in place. In any case, the foreign tax credit cannot exceed the Polish CIT amount on the foreign dividends. **Impact EU GAAR** Poland has introduced regulations implementing PSD GAAR. Under the anti-abuse rule, the tax exemption for inbound dividends and the exemption from withholding tax on outbound dividends would not apply if dividends were connected with an agreement, a transaction, or a legal action or series of related legal actions, where the main or one of the main purposes was benefiting from these tax exemptions and such transactions or legal actions do not reflect the economic reality and are used with the sole intention of obtaining a tax benefit detrimental to the substance and main purpose of the PSD. For the purpose of the above rule, it is considered that a transaction or a legal action does not reflect the economic reality if it is not performed for justified economic reasons. In particular, this concerns transferring the ownership of shares of a dividend-paying entity or in earning revenue by that entity which is then paid as a dividend.	

Bulgaria	Czech Republic	Hungary	Poland	Romania
	The abuse of law concept generally originates from Czech constitutional law and started to be adopted to the tax cases by the Czech Supreme Administrative Court from approx. 2004. The concept is applied on a strictly case-by-case basis and in general to operations without sound non-tax business motivations that are predominantly designed to derive tax benefits (including, as the case may be, reduction of WHT rate under DTT or tax exemption under the EU Parent-Subsidiary Directive). The application of the abuse of law concept is generally in line with the case law on abuse of law applied by the Court of Justice of the European Union.		The introduction of PSD GAAR may significantly increase the interest of the Polish tax authorities in the examination of applicability of the PSD tax exemption to outbound dividends. Given the vague wording of the Polish provisions implementing PSD GAAR, it is expected that they may raise controversies and the specific prerequisites of applying the PSD GAAR will be shaped mainly by jurisprudence of Polish administrative courts.	

2.3 Gains on shares (participation exemption)

Bulgaria	Czech Republic	Hungary	Poland	Romania
Capital gains on the sale of shares are included in the taxable base of resident companies and taxed at the normal CIT rate, except for capital gains from transfer of certain financial instruments (including of shares in collective investment schemes and national investment funds, and of shares, rights and government securities, performed on a regulated market within the meaning of the Law on Financial Instruments Market), which decrease the financial result.	Capital gains are part of the general tax base and subject to CIT at the ordinary rate. Certain participations (especially investments held for trade) are also subject to fair market revaluation accounting. Revaluation gains on such participations are subject to tax unless the below exemption applies. Capital gains realised on sale of shares in domestic or foreign companies can be exempt from taxation if the seller is a beneficial owner of such income and has held at least 10% of the registered capital of the subsidiary for an uninterrupted period of 12 months (this holding period can be fulfilled subsequently). In respect of the sale of a Czech subsidiary, both companies must have one of the forms listed in the Parent-Subsidiary Directive or be a cooperative (družstvo). In respect of the sale of an EU subsidiary, both companies must have a specified legal form, be EU residents and be subject to tax. In respect of the sale of companies from other countries, the exemption applies as long as - the subsidiary is a tax resident of a state that has concluded a tax treaty with the Czech Republic;	Gains realised on a shareholding in another (Hungarian or foreign) company are in principle subject to CIT (9%). However, capital gains on the sale and the retirement as in-kind contribution of the so called 'reported' participations are exempt from CIT, unless held in a CFC. (Note: capital losses on the reported participations will not be recognisable for tax purposes.) To qualify as reported participation, the participation should reach the following requirements: - the participation is at least 10%; - has been held for at least one year; and - has been reported to the tax authority within 75 days of acquisition. Foreign companies holding shares could also avail of the participation exemption on capital gains, if they transfer their place of effective management to Hungary and acquire Hungarian tax residence. In such case, the shares should be reported to the Hungarian tax authority within 75 days from the date of transfer.	Capital gains from the disposal of shares are subject to 19% CIT and aggregated with other income.	Capital gains obtained from the sale of shares held in a Romanian legal entity or a foreign legal entity established in a state with which Romania has concluded a DTT are exempt from CIT, if the taxpayer has held at least 10% of the relevant entity's share capital for a minimal uninterrupted period of one year as of the date of share transfer. Otherwise, capital gains are treated as ordinary business income and taxed accordingly. **Liquidation** Income obtained by a Romanian company from the liquidation of another Romanian legal person or of a foreign legal entity established in a state with which Romania has concluded a DTT are exempt from CIT provided that it has held at least 10% of the liquidated entity's share capital for an uninterrupted period of one year. Otherwise, such income is subject to the general 16% CIT.

Bulgaria	Czech Republic	Hungary	Poland	Romania
	- the subsidiary has a legal form similar to a Czech joint stock company or a limited liability company or cooperative; - the parent-subsidiary relationship is fulfilled (10% for at least 12 months); and - the subsidiary is subject to CIT of at least 12%. The exemption does not apply to the gains on the sale of a Czech subsidiary in liquidation. Furthermore, the exemption does not apply to the gains on sale of shares that were purchased as a part of business enterprise. The participation exemption also does not apply, should either the holding company or the subsidiary be tax exempt from CIT or similar tax, if they choose to be tax exempt or receive similar tax advantage, or if they are subject to CIT at the rate of 0%.	Other than the above, there is a general CIT exemption for gains on shares realised due to a - reduction of capital, or - a termination without legal succession, excluding all CFC subsidiaries irrespective whether the acquisition of the participation was reported or not. This exemption is also available for reported participations even within one year. A deferral of CIT can also be sought on gains in the case of a preferential transformation or preferential exchange of shares under certain conditions, largely in line with the EC Merger Directive. Tax incentives via preferential transformations are applicable provided that the transactions had actual economic purposes.		

2.4 Losses on shares

Bulgaria	Czech Republic	Hungary	Poland	Romania
Capital losses are deductible for tax purposes except for losses from transfer of certain financial instruments (including shares in collective investment schemes and national investment funds, shares, rights and government securities, performed on a regulated market within the meaning of the Law on Financial Instruments Market), for which the effect from the loss is neutralised through adjustment of the financial result.	Capital losses are generally not deductible. However, losses arising from the sale of shares held for trade (except for shares representing controlling or significant influence = holding of at least 20%) and losses resulting from revaluation of such investments to fair market value are deductible.	Capital losses on shares are generally deductible. However, the impairment, and losses and even currency exchange losses realised on participations in a CFC or on reported participations (see Section 2.3 above) are not deductible for CIT purposes.	There are no special rules as to deduction of a capital loss. Therefore, losses incurred on the sale of shares are generally tax deductible and may be deducted from other revenues.	Capital losses on shares as result of their sale or evaluation according to accounting regulations are deductible for CIT purposes, if the taxpayer has not held at least 10% of the relevant entity's share capital for a minimum uninterrupted period of one year. Otherwise, capital losses may not be deducted.

2.5 Costs relating to the participation

Bulgaria	Czech Republic	Hungary	Poland	Romania
In principle, all expenses related to the business operations of the taxable persons and supported by sufficient documentation are tax deductible. Interest expenses would be regulated by the thin capitalisation rule (see Section 5).	Generally, costs related to the holding of any participation/share (e.g. interest on a loan, shareholder costs) are tax non-deductible. Interest on loans received as far as six months before an acquisition of a subsidiary are tax non-deductible, unless it is proved and specifically documented by a taxpayer that such loan is unrelated to the shareholding. Non-deductible indirect costs related to the participation are deemed equal to 5% of the actual received dividends; unless it is proved that the actual incurred indirect costs are lower. However, these provisions apply only in respect to participations in companies that fulfill Parent-Subsidiary conditions, i.e. EU, Iceland, Norway and Lichtenstein companies, and companies residing in countries with which the Czech Republic concluded a valid tax treaty, with the 10% ownership for 12 months criteria fulfilled, etc. (see Section 2.2).	Generally all costs and expenses related to the business operations are tax deductible. Costs relating to the participation are generally deductible, but thin capitalisation rules apply to interest expenses (see Section 5). Cost relating to the purchase of participations however may become non-deductible if the acquisition is followed by the merger with the target (debt push-down) based on the general anti-avoidance rules (see Section 5). Deductibility of cost following a debt-push down should always be secured by a binding advance tax ruling.	Polish tax law does not provide for rules pertaining to costs relating to the participation. Thus, deductibility of such costs should be analysed on a case-by-case basis. Expenses incurred on the disposal of a capital asset are deductible for the seller. Generally Polish tax authorities accept the approach that interest on loans taken to acquire shares in the Target should be tax deductible when interest is paid or compounded. In practice it is advisable to secure this approach by obtaining a tax ruling. See Section 5 for the thin-capitalisation rules.	The legislation does not contain specific provisions on the deductibility of costs related to holding participation / shareholding. Such deductibility is currently debatable and open to various interpretations.

2.6 Currency exchange results

Bulgaria	Czech Republic	Hungary	Poland	Romania
Currency exchange losses / gains from the valuation of monetary assets are considered deductible losses / taxable income for the purpose of adjustment of the financial result.	Both realised and unrealised currency exchange results are generally accounted for in the profit-loss account and are taxable or tax deductible.	Generally currency exchange losses/gains are recognised for CIT purposes. In addition, unrealised exchange fluctuation is also subject to taxation. It is possible, however, to defer the CIT effects of unrealised currency exchange results of fixed financial assets and long-term liabilities until the currency exchange result is actually realised, provided that the transactions are not hedged. The deferral of the tax effects is the taxpayer's choice. Currency exchange losses realised on participations so-called 'registered' or 'reported' participations are not deductible for CIT purposes.	Positive currency exchange differences constitute taxable revenues and negative currency exchange differences constitute tax deductible costs. Taxpayers are allowed to choose the method of settlement of currency exchange differences for CIT purposes. They can opt for settlement according to either the rules provided in accountancy regulations or separate rules provided in the CIT Act.	Currency exchange results registered in accounts are treated as ordinary revenues / expenses. In case of long-term loans from other than financing entities, the net foreign exchange losses are treated as interest, being subject to thin capitalisation rules.

2.7 Tax rulings

Bulgaria	Czech Republic	Hungary	Poland	Romania
There is no regime for binding advance rulings. However, it is common practice to direct written inquiries to the revenue authorities to solve an open question or get confirmation on a certain taxation practice or duty. The rulings of the Executive Director of the National Revenue Agency are not binding on persons outside the revenue administration. If, however, a taxpayer acts in accordance with a ruling and the ruling is later decided to be inconsistent with the law, no penalties (including interest) can be applied to the taxpayer.	There is no general advance ruling system in the Czech Republic. The tax authorities may issue a binding ruling on a taxpayer's request regarding the possibility to utilise the tax loss after the substantial change in the structure of shareholders (see Section 2.8). Moreover, a taxpayer may request the tax authority for a binding assessment on whether prices agreed upon with related parties are at arm's length. The whole group structure must be disclosed. Additional areas where binding tax rulings can be issued are technical appreciation of assets, R&D deduction and two other areas relating to individuals and non-profit organisations. In addition, the binding ruling can be issued on whether a taxable supply, in terms of a correct classification, is subject to general or reduced tax rate or reverse charge mechanism for the VAT purposes. A fee of CZK 10,000 will be charged for the filing of a request. None of those are frequently used because of practical problems. There is also a possibility to apply for an opinion of the General Finance Directorate on interpretative issues, but such opinions are not legally binding.	Binding tax rulings may be requested by taxpayers and foreign entities in relation to any type of tax provided the ruling relates to the tax consequences of a future transaction, and a detailed description is provided. Binding tax rulings may be obtained also for transactions not qualifying as future transactions; this ruling would be available in connection with CIT, local business tax and personal income tax issues. The Ministry for National Economy must generally issue a ruling within 90 days, which can be extended with 60 days. If the taxpayer requests for an accelerated procedure, the ruling is issued within 60 days, which may be extended with 30 days. The fee for the ruling is HUF 5 million (approx. EUR 16,200) in an ordinary procedure, and HUF 8 million in an accelerated procedure. The ruling issued is effective for the five following tax years, or until the legislation relevant for the transaction changes. The taxpayer may request the extension of the ruling for a further two tax years. Further to the 'ordinary' binding ruling described above, a so-called 'long-term binding ruling' is also available for larger taxpayers fulfilling certain conditions. The 'long-term' ruling would be referred to CIT issues only.	The tax authorities may issue a ruling at the request of a taxpayer. The request sets out the facts, the question and the taxpayer's opinion on the case. A positive tax ruling issued by the Head of the National Treasury Information (HNTI) contains confirmation of the taxpayer's position via either the HNTI's opinion on the applicable tax treatment together with supporting argumentation, or just a pure confirmation of the applicant's standpoint. If a ruling is negative, it is possible to appeal and challenge it before tax courts. A tax ruling should generally be issued by the HNTI within three months of filing the application. In more complicated cases, the HNTI is entitled to extend the deadline. However, the three-month deadline is generally kept by the tax authorities. The tax regulations give the applicant strong protection if it follows the tax treatment presented in the tax ruling issued by the HNTI. This protection results from the fact that acting in line with the tax ruling cannot be held against the applicant. This implies that as long as the applicant acts in line with the tax ruling: - no tax penal proceedings will be initiated against persons responsible for tax matters;	Advance tax rulings and transfer pricing rulings may be issued by tax authorities. The rulings are binding on the tax authorities. Under the law, advance tax rulings are to be issued within three months and are subject to a fee of EUR 5,000 for large taxpayers and EUR 3,000 for other categories of taxpayers. Transfer pricing rulings are to be issued in 12 months (18 months if it refers to a bi/multilateral ruling) and are subject to fees up to EUR 20,000. In practice, the above-mentioned terms are usually prolonged. Although possible under the law, tax rulings have thus far seldom been obtained in practice as they are time consuming and administratively taxing.

Bulgaria	Czech Republic	Hungary	Poland	Romania
		The 'long-term' ruling would remain in force for three financial years (including the year of request) and cannot be extended, even if the underlying tax laws change. The fee for the 'long-term' ruling is HUF 8 million in an ordinary procedure, and HUF 11 million in an accelerated procedure. The taxpayer and the foreign entity may request - the ascertainment that an already existing binding ruling is still applicable despite due legislative or factual changes if these changes have no substantial effect on the conclusion of the ruling; - to extend the scope of the already existing binding ruling with an additional two years (excluding long-term binding rulings); - simultaneously the ascertainment of the applicability of the binding ruling and the extension of the scope thereof. Related parties may request the National Tax Authority to issue an advance ruling (APA) on the transfer pricing aspects of a future transaction.	- no penalty interest will be charged if any tax is due; - applicant will not have to pay any tax arrears that have arisen as a result of acting in line with the tax ruling. This tax exemption is only applicable if the transaction or other event has been performed after the receipt of the ruling; that is why receiving the ruling before the transaction is so crucial. Generally speaking the protection lasts until the tax ruling is changed or dismissed by the tax authorities (e.g. if they find it incorrect or the law changes). Detailed rules are provided in this respect. An appeal procedure is available. The protection resulting from the tax ruling does not apply inter alia in case the facts or the future event described in the tax ruling is a part of activities being subject to decision issued under the GAAR regulations. The fee for tax rulings is PLN 40, chargeable in practice on each question in the application. There is also an advance ruling system applicable to transfer pricing arrangements (APA).	

Bulgaria	Czech Republic	Hungary	Poland	Romania
		The National Tax Authority must issue a ruling within 120 days. This period may be extended twice, each time for a further 60 days. The advance ruling is binding for all tax authorities, unless relevant circumstances change. The advance ruling on transfer pricing is valid for a pre-determined period of three to five years. Upon request, this period can be extended once for a further three years.	Additionally, in order to secure the tax payer's position against application of the general anti-abuse clause (GAAR) the taxpayer may apply to the Head of National Treasury Administration for the so-called protective opinion disallowing application of the GAAR. Proceedings aimed to issue an opinion of this kind are conducted under special rules, and the applicant has to pay a fee of PLN 20,000 (approx. EUR 5,000). An opinion should be issued within six months of the application filing date. A refusal to issue an opinion is appealable to the competent administrative courts.	

2.8 Loss carry over rules

Bulgaria	Czech Republic	Hungary	Poland	Romania
Carry back Loss carry back is not permitted in Bulgaria. **Carry forward** The ordinary losses may be carried forward to offset taxable profit earned in the five succeeding calendar years. In case of mergers / demergers the newly formed / surviving company is not allowed to carry forward losses formed by a merging company.	**Carry back** Loss carry back is not permitted in the Czech Republic. **Carry forward** Losses may be carried forward for five tax periods. However, special limitations apply in the case of a substantial change in a shareholding structure (a substantial change is any change which affects more than 25% of the registered share capital or voting rights or results in a substantial influence of a shareholder), de/mergers and transfers of enterprises. Losses can be transferred in mergers and transfers of enterprises if EU Merger Directive conditions are fulfilled.	**Carry back** In general, no carry back is permitted in Hungary. However, taxpayers operating in the agricultural sector may account deferred losses by self-revision or by correcting the amount of tax paid in the previous two tax years by reducing the pre-tax profit of the preceding two tax years by the amount of the deferred loss; losses carried back per year cannot exceed the 30% of the relevant tax year's pretax profit, however, if the taxpayer fails to exercise this option, or transfers only part of the loss to the debit of the previous two tax years, the general loss carry forward rules may be applied to the remainder. **Carry forward** From 2004, Hungary has allowed the carry forward of tax losses indefinitely. From 2015, the time limit to use tax losses has been reduced to five tax years. Tax losses from the tax years before 2015 may be carried forward and utilised according to the rules in force on 31 December 2014, but are only available until 2025. When accrued losses are deducted, losses carried forward from earlier years must be written off first.	**Carry back** Loss carry back is not permitted in Poland. **Carry forward** Losses may be carried forward for a maximum of five subsequent years, but not more than 50% of each year's loss may be utilised in a single subsequent tax year.	**Carry back** Loss carry back is not permitted in Romania. **Carry forward** Losses may be carried forward for seven years.

Bulgaria	Czech Republic	Hungary	Poland	Romania
		Carried forward losses are deductible up to 50% of the relevant year's CIT base (as calculated without the losses carried forward) per year. In the case of corporate restructurings and acquisitions, losses can be carried forward by the successor company only if certain conditions are fulfilled with respect to carrying on and generating income from the business activity of the acquired or successor company.		

2.9 Group taxation for CIT purposes

Bulgaria	Czech Republic	Hungary	Poland	Romania
There is no group taxation regime for CIT purposes.	There is no group taxation regime for CIT purposes.	There is no group taxation regime for CIT purposes.	A 'tax capital group' (tax consolidated group) may be formed for CIT purposes in Poland. Taxable income for the group is calculated by combining the income and losses of all the companies. A tax consolidated group formed and registered with the relevant tax authorities is treated as a separate taxpayer for CIT purposes. The basic requirements for obtaining the status of a tax capital group are the following: - A tax capital group may be formed only by limited liability or joint-stock companies based in Poland, provided that average share capital is not lower than PLN 1,000,000. - The holding company should hold at least 95% of the shares in the other group companies. - Subsidiary companies cannot be shareholders in the holding company or other subsidiary companies in the group. - None of the members of the group can have tax liabilities towards the Treasury (e.g. VAT, CIT). - The holding company and the subsidiaries have agreed to establish the capital group for at least three years by means of a notarial deed. The tax agreement must be filed with the tax office.	There is no group taxation regime for CIT purposes.

Bulgaria	Czech Republic	Hungary	Poland	Romania
			After the creation of the tax consolidated group, the companies forming this group should additionally satisfy the following requirements: - None of the companies included in the group can singularly benefit from tax exemptions (excluding VAT exemptions). - The annual level of the group's profitability cannot be less than 3%. - Companies in the group cannot maintain relationships with companies from outside the group resulting in a breach of transfer pricing restrictions. If all the above-mentioned restrictions are met the tax capital group may take advantage of the following benefits: - The losses of some of the members of the tax capital group can be set off against the taxable income of its other members. - Transfer pricing restrictions do not apply between companies in the group. - Donations between companies in a tax capital group are CIT-neutral, as the donor can treat the value of the donation as a tax cost; donations outside the group are not deductible.	

3. Withholding taxes payable by the holding company

3.1 Withholding tax on dividends paid by the holding company

Bulgaria

Dividends paid to non-resident companies are subject to final withholding tax of 5%, unless a lower tax treaty rate applies.

A special exemption from withholding taxation is provided for dividends distributed to companies that are tax residents in an EU Member State, or a country which is a party to the Agreement for the European Economic Area.

Liquidation / Share repurchase

Liquidation quotas are subject to withholding tax at the rate of 5% chargeable on the balance between the market value of the quotas and the documented acquisition price of the respective shares. This rule applies unless a tax treaty relief applies.

A special exemption from withholding taxation (save for cases of hidden distribution of profit) is provided for liquidation quotas distributed to company tax residents of an EU Member State, or a country which is a party to the Agreement for the European Economic Area.

Czech Republic

Dividend payments from resident companies to other resident companies are subject to a 15% final withholding tax. Double taxation is avoided by not including dividends, which were subject to a 15% withholding tax in the general tax base of receiving companies.

A domestic distribution of dividends can be exempt from taxation if the recipient – beneficial owner – holds at least 10% of the registered capital of the distributing company for an uninterrupted period of 12 months (this holding period can be fulfilled subsequently). Both companies must have one of the forms listed in the Parent-Subsidiary Directive or be a cooperative (družstvo).

The exemption does not apply to dividends distributed from a Czech subsidiary in liquidation, unless distributed by such a subsidiary to EU resident parent company.

Dividends paid to a non-EU or non-EEA country with whom the Czech Republic does not have a tax treaty in place (DTT or TIEA (bilateral or multilateral)), or in cases that the tax residency is not ascertained, are subject to a withholding tax of 35%.

Hungary

Hungary does not impose withholding taxes on dividend distributions (even to tax haven countries) unless the recipient is a private individual.

Dividend distributions to individuals are subject to 15% dividend withholding tax, unless limited by a tax treaty to a lower rate, and health fund contribution obligations capped at HUF 450,000 (approx. EUR 1,400) / year may apply.

Impact EU GAAR

See our comments in Section 2.2 above.

Impact ATAD – GAAR

See our comments in Section 2.2 above.

Poland

Dividends paid by a resident company to:

(i) non-resident 'privileged' (e.g. EU, EEA, Swiss) parent company are:

- withholding tax exempt provided that certain conditions are met (i.e. at least 10% (for Swiss company – at least 25%) shareholding (as an owner), holding shares for an uninterrupted period of two years – this condition does not have to be met upfront);
- taxed according to relevant tax treaty – if these conditions are not met;

(ii) non-resident 'unprivileged' parent company is taxed according to relevant tax treaty or 19% withholding tax if no tax treaty can be applied.

To benefit from the lower withholding rate (or exemption), a certificate of tax residency must be provided by the company receiving the dividends. Additionally, in order to apply the exemption resulting from EU Parent-Subsidiary regime, a written confirmation is required from the company receiving the dividends stating that it fulfills requirements for exemption.

Romania

Outbound dividends paid by Romanian companies are subject to withholding of 5% unless the EU Parent-Subsidiary Directive (see below) or a different treaty rate applies.

Dividends distributed to companies resident in EU are exempt of tax providing that at the distribution moment the recipient holds a participation of at least 10% in the share capital of the distributing company for at least one continuous year (the EU Parent-Subsidiary Directive). Until the one-year period is met, dividends are subject to tax (at 5%) which can later be claimed back from the state.

Liquidation / Share repurchase

In case the liquidation share of a Romanian company is lower than the paid-in capital, there is no withholding on the paid-out amount. In the opposite case, the amount of the liquidation share exceeding the paid-in capital would be subject to withholding if remitted to non-residents, however the provisions of the tax treaties would prevail.

Redemption of shares is not taxable as dividend.

Bulgaria

Income from liquidation quotas obtained by a contractual fund is not subject to withholding taxation.

Upon redemption / repurchase of shares, the company shall form a reserve in the amount of the nominal value of all the repurchased shares. This reserve may be distributed among the shareholders only in case of reduction of the capital by the amount of the repurchased shares, or may be used for increase of the capital.

Impact EU GAAR

Because of the existing tax evasion rules in force having broader scope the EU GAAR was considered covered in the Bulgarian tax law with no need for amendments in that respect. Thus, no specific impact of the EU GAAR is expected.

Czech Republic

Dividends paid to other non-resident companies are subject to a withholding tax of 15%, which may be reduced by virtue of tax treaties or Parent-Subsidiary exemptions (under same conditions as mentioned above).

The exemptions also do not apply, should either the holding company or the subsidiary (regardless of tax residency) be tax exempt from CIT or similar tax, if they choose to be tax exempt or receive similar tax advantage, or if they are subject to CIT at the rate of 0%.

Liquidation / Share repurchase

Liquidation share proceeds exceeding the paid-in capital (or the acquisition costs of the share) are subject to a withholding tax of 15%. This rate can be reduced by virtue of most tax treaties.

Redemption / repurchase of shares is generally not considered a partial liquidation.

Impact EU GAAR

See Section 2.2.

Impact ATAD – GAAR

Same as EU GAAR, no expected change.

Hungary

Poland

Liquidation / Share repurchase

Proceeds from the liquidation of a Polish company are considered as dividends, subject to dividend withholding tax (see point above). If repayment of capital results from automatic or compulsory redemption of shares and the amount repaid on a share exceeds its cost of acquisition in Poland, such income is subject to tax under the same rules as dividends (see comments above). The income of a Polish tax resident company from disposal of shares for the purpose of redemption (voluntarily redemption) is subject to 19% CIT under general rules and aggregated with other income. Income of a foreign tax resident from disposal of shares in a Polish company for the purpose of redemption of the shares may be exempt from taxation in Poland under a relevant tax treaty.

Impact EU GAAR

Until today, drafts of Polish legal provisions implementing the ATAD Directive and general status of works are not disclosed to the public.

Romania

Impact EU GAAR

The Romanian Fiscal Code enforced on 1 January 2016, contains provisions which implemented the Parent-Subsidiary Directive GAAR word by word. The tax authorities' focus on scrutinising the applicability of tax exemptions under Parent-Subsidiary Directive could increase.

Impact ATAD – GAAR

ATAD has not been transposed into the Romanian tax law yet. Recently, the Romanian legislative bodies initiated the procedures for this purpose. Currently, there is no official communique or practice revealing the expected impact of ATAD.

Bulgaria	Czech Republic	Hungary	Poland	Romania
Impact ATAD – principal purpose test No information was found in the public domain on developments relevant to ATAD as at 26 June 2017 and in particular on any proposals for amendments of the tax legislation or announcement by the government in that respect. It should be noted that the provision of Article 6, paragraph 1 from ATAD containing the ATAD principal purpose test has similar wording as the EU GAAR under Council Directive (EU) 2015/121, which was considered covered in the Bulgarian tax law with no need for amendments in that respect because of the existing tax evasion rules in force having broader scope. However, based on the official position of Bulgaria on the Multilateral Convention (MLI), it should be mentioned that Bulgaria has chosen to adopt the "principal purpose test plus simplified limitation of benefits" option. Such choice could be considered as indicator that some changes in the local legislation in view of the principal purpose test under ATAD could be expected.				

3.2 Withholding tax on interest paid by the holding company

Bulgaria	Czech Republic	Hungary	Poland	Romania
In general, interests paid to non-residents are subject to a final withholding tax at a rate of 10%, unless a lower treaty rate applies. In order to benefit from treaty benefits (i.e. lower withholding tax rates), the recipient of the income must acquire an advance approval (tax clearance) from the Bulgarian revenue authorities. A foreign tax resident of an EU country or a country that is a party to the Agreement for the European Economic Area and is liable for payment of Bulgarian withholding tax on interest, royalties, capital gains, etc. has the option to recalculate the tax due. The tax that would be due after the recalculation is equal to the tax that a local Bulgarian entity would be liable to pay (i.e. the foreign resident shall be entitled to deduct expenses related to the generated income, etc.) This right is exercised through filing an annual declaration form. The above option is not available to residents of non-EU-countries that are parties to the Agreement for the European Economic Area which have not executed a tax treaty with Bulgaria in effect, or the treaty executed does not contain provisions for exchange of information or cooperation upon collection of taxes.	Interest paid to a resident of a non-EU or non-EEA country with whom the Czech Republic does not have a tax treaty in place (DTT or TIEA (bilateral or multilateral)), or in cases that the tax residency is not ascertained, is subject to a withholding tax of 35%. Withholding tax of 15% applies to interest paid to other foreign lenders. This rate can be reduced by virtue of most tax treaties. The EU Interest and Royalties Directive is implemented in the Czech law. The interest payments to (i) EU, Swiss, Norwegian or Icelandic (effective from 1 May 2004) and (ii) Lichtenstein (effective from 1 January 2016) recipients are exempt from withholding tax if the Interest and Royalties Directive criteria are met.	Based on domestic tax law (which is applicable irrespective of tax treaties or the EU Interest and Royalties Directive) there is no withholding tax on interest paid to a corporate entity. **Impact ATAD – GAAR** The ATAD GAAR should not have an impact as no withholding tax is levied on interest paid to a corporate entity.	There is a 20% withholding tax on interest paid to foreign lenders that may be reduced by virtue of tax treaties. The reduced withholding tax rate is applicable provided that a certificate of tax residency of the foreign beneficial owner is provided. Poland implemented the Interest and Royalties Directive. Therefore, interest payments between parent and subsidiary, subsidiary and parent and between direct sister companies (in all cases a minimum 25% interest and two-year holding period is required) are free from withholding tax. If the interest rate on a loan is not at arm's length, the excess payment may potentially be challenged as not deductible under general rules. However, such payment may not be automatically reclassified as a dividend payment. Under Polish CIT regulations transposing the EU Interest and Royalties Directive regime and under most treaties the interest that is paid to a related party which exceeds the arm's length level may not benefit from the lower withholding tax rates (applicable under the EU Interest and Royalties Directive regime or relevant treaties) for the part exceeding the market level.	In general, interest paid to non-residents is subject to a final withholding tax of 16%, unless a lower treaty rate applies. A 50% tax rate applies to interest paid to a state with which Romania has not concluded a legal instrument under which the exchange of information can be performed, if such transaction qualifies as artificial. Interest obtained from Romania by companies resident in EU is exempt from withholding tax provided that the beneficial owner of interest has held at least 25% in the share capital of the payer for at least two continuous years ending as of the date of interest payment. **Impact ATAD – GAAR** ATAD has not been transposed into the Romanian tax law yet. Recently, the Romanian legislative bodies initiated the procedures for this purpose. Currently, there is no official communique or practice revealing the expected impact of ATAD.

Bulgaria	Czech Republic	Hungary	Poland	Romania
Following expiry of the agreed transitional period for Bulgaria, interest and royalty income payable by a Bulgarian tax resident entity to an associated company from another Member State shall enjoy full exemption from Bulgarian withholding tax from 2015 onwards in compliance with the Interest and Royalty Directive (Directive 2003/49/EC). For purposes of application of the exemption, the law provides that one entity is considered associated with another entity should one of the following conditions be fulfilled as of accrual of the income for a preceding uninterrupted period of at least two years: - Entity (A) holds at least 25% in the capital of entity (B). - Entity (B) holds at least 25% in the capital of entity (A). - A third entity (C), which is either a local company or a company tax resident of another Member State, holds at least 25% in the capital both of entity (A) and entity (B). Interest and royalty income might be exempt from withholding tax prior to the expiration of the minimum two-year term in case ownership over the required minimum of share capital is not interrupted as of the moment of accrual of the income.	The exemption can be applied provided that the recipient (beneficial owner of interest payment) and the interest payer are directly related (direct shareholding or voting power of at least 25%; if a person meets the criteria in respect to more entities, all these entities are considered directly related) for an uninterrupted period of at least 24 months (can be fulfilled subsequently) and only if the interest payment (income) is not attributable to a permanent establishment located (i) in the Czech Republic or (ii) in a country other than EU country, EEA country or Switzerland. Prior decision of the tax authorities is necessary to apply the exemption. **Impact ATAD – GAAR** Same as EU GAAR, no expected change.		**Impact ATAD – GAAR** Until today, drafts of Polish legal provisions implementing the ATAD Directive and general status of works are not disclosed to the public.	

Bulgaria	Czech Republic	Hungary	Poland	Romania
However, if the possession of the required minimum capital is interrupted prior to the expiration of the minimum two-year term, the general rate of 10% shall apply to the interest income and royalties. The withholding tax due shall be adjusted as if the tax rate was 10%. In relation to the difference between due and paid in withholding tax, default interest shall accrue for the period as of the date on which the withholding tax should have been paid and the date of its effective payment. Foreign entities that meet the requirements for exemption, but nevertheless have their interest and royalty income levied at 10%, could request and get a refund of overpaid tax not later than one year of the request thereof. The relevant companies must have a legal form listed in the EU Interest and Royalties Directive and be subject to a CIT without the option for exemption. Whenever the beneficiary of the income is a permanent establishment of a foreign entity, the exemption shall be applied in case - such permanent establishment is established in another EU Member State and is a permanent establishment of foreign entity from a Member State; and				

Bulgaria	Czech Republic	Hungary	Poland	Romania
- the local payer of the income is associated with the foreign entity to whose permanent establishment the income is paid. In addition full tax exemption is available also for (i) interest income of foreign corporate lenders under a loan extended to the State or the municipalities, on which no bonds will be issued, as well as for (ii) interest income of foreign corporate investors from bonds or other debt securities, issued by the State or the municipalities or local entities and traded on a regulated market in Bulgaria or in other Member State of the EU or in a state party to the EEA Agreement and (iii) interest income of foreign lender issuer of bonds or other debt securities when he is an EU/EEA tax resident who has issued the bonds / debt securities with the aim to lend the proceeds to local entity and the bonds / debt securities are admitted for trade on a regulated market in Bulgaria or in other Member State of the EU or in a state party to the EEA Agreement. **Impact ATAD – principal purpose test** No information was found in the public domain on developments relevant to ATAD as at 26 June 2017 and in particular on any proposals for amendments of the tax legislation or announcement by the government in that respect. It should be noted that				

Bulgaria	Czech Republic	Hungary	Poland	Romania
the provision of Article 6, paragraph 1 from ATAD containing the ATAD principal purpose test has similar wording as the EU GAAR under Council Directive (EU) 2015/121, which was considered covered in the Bulgarian tax law with no need for amendments in that respect because of the existing tax evasion rules in force having broader scope. However, based on the official position of Bulgaria on the MLI, it should be mentioned that Bulgaria has chosen to adopt the “principal purpose test plus simplified limitation of benefits” option. Such choice could be considered as indicator that some changes in the local legislation in view of the principal purpose test under ATAD could be expected.				

3.3 Withholding tax on royalties paid by the holding company

Bulgaria

Royalties paid to non-residents are subject to a final withholding tax at a rate of 10%, unless a lower treaty rate applies following a tax clearance procedure.

A foreign tax resident of an EU-country or a country that is a party to the Agreement for the European Economic Area, liable for payment of Bulgarian withholding tax on interest, royalties, capital gains, etc. has the option to recalculate the tax due. The tax that would be due after the recalculation is equal to the tax that a local Bulgarian entity would be liable to pay (i.e. the foreign resident shall be entitled to deduct expenses related to the generated income, etc.) This right is exercised through filing an annual declaration form.

The above option is not available to residents of non-EU countries that are parties to the Agreement for the European Economic Area which have not executed a tax treaty with Bulgaria in effect, or the treaty executed does not contain provisions for exchange of information or cooperation upon collection of taxes.

With reference to the implementation of the EU Interest and Royalties Directive, as of 1 January 2015 royalties are exempt from withholding tax, if the respective qualifying requirements have been met.

Czech Republic

Payments for the use or the right to use, of industrial rights, software, know-how and copyrights paid to a resident of a non-EU or non-EEA country with whom the Czech Republic does not have a tax treaty in place (DTT or TIEA (bilateral or multilateral)), or in cases that the tax residency is not ascertained, are subject to a withholding tax of 35%.

Withholding tax of 15% applies to the above types of income paid to other non-resident recipients. This tax rate can be reduced by virtue of the relevant tax treaty.

The EU Interest and Royalties Directive is implemented in the Czech law: The royalty payments to EU, Swiss, Norwegian or Icelandic (effective from 1 January 2011) and (ii) Lichtenstein (effective from 1 January 2016) recipients are exempt from withholding tax if the EU Interest and Royalties Directive criteria are met.

Hungary

Based on domestic tax law (which is applicable irrespective of tax treaties or the EU Interest and Royalties Directive) there is no withholding tax on royalties paid to a corporate entity.

Impact ATAD – GAAR

The ATAD GAAR should not have an impact as no withholding tax is levied on royalties paid to a corporate entity.

Poland

There is a 20% withholding tax on royalties paid to foreign recipients that may be reduced by virtue of tax treaties. In order to obtain a reduction of the withholding rate, a certificate of tax residence is required.

See Section 3.2 for the transposition of the Interest and Royalties Directive. The rules set out in Section 3.2 apply to the payment of royalties.

If the foreign company is not covered by a tax treaty and it provides certain intangible services, e.g. advisory, accounting, legal, marketing, management of data processing and HR (other than qualified as royalties) to a Polish resident company, a 20% domestic withholding tax rate is applicable as well. In the case of treaty protected service providers, income from the provision of such services falls under business profits and thus may not be taxed in Poland unless the service provider generates its income through a Polish permanent establishment. Nevertheless, the Polish service recipient should be provided with a tax certificate of the foreign service provider in order not to withhold 20% withholding tax under the tax treaty regime.

Romania

Royalties paid to non-resident companies are subject to a 16% final withholding tax, unless a lower treaty rate applies. A 50% tax rate applies to royalties paid to a state with which Romania has not concluded a legal instrument under which the exchange of information can be performed, if such transaction qualifies as artificial. See information in Section 3.2 for the implementation of the EU Interest and Royalties Directive. The same conditions apply.

Impact ATAD – GAAR

ATAD has not been transposed into the Romanian tax law yet. Recently, the Romanian legislative bodies initiated the procedures for this purpose. Currently, there is no official communique or practice revealing the expected impact of ATAD.

Bulgaria	Czech Republic	Hungary	Poland	Romania
The qualifying requirements as to associated parties, minimum holding period and equity participation are the same as outlined for interest payments in Section 3.2 above. In addition to the exceptions provided for in Article 4 of the Directive, Bulgarian law sets forth three additional exceptions to the application of the exemption from withholding tax on interest and royalties and the entitlement to tax refund in case of withheld tax subject to exemption, namely when the income: - represents expenses of a permanent establishment in Bulgaria not deductible for tax purposes, save for expenses for interests which are regulated by the thin cap rule; - is accrued by a foreign entity from a country which is not a Member State, through a Bulgarian permanent establishment of such foreign entity; - is from transactions where the main motive or one of the main motives for execution of the transaction is deviation from or evasion of taxation. **Impact ATAD – principal purpose test** See our comment re ATAD PPT under 3.1 and 3.2 above.	The exemption can be applied provided that the recipient (beneficial owner of royalty payment) and the payer are directly related (direct shareholding or voting power of at least 25%; if a person meets the criteria in respect to more entities, all these entities are considered directly related) for 24 months (can be fulfilled subsequently) and only if the royalty payment (income) is not attributable to a permanent establishment located (i) in the Czech Republic or (ii) in a country other than EU country, EEA country or Switzerland. Prior decision of the tax authorities is necessary to apply the exemption. **Impact ATAD – GAAR** Same as EU GAAR, no expected change.		**Impact ATAD – GAAR** Until today, drafts of Polish legal provisions implementing the ATAD Directive and general status of works are not disclosed to the public.	

4. Non-resident capital gains taxation – domestic legislation and tax treaties

Bulgaria	Czech Republic	Hungary	Poland	Romania
Capital gains from any transaction on shares and other securities issued by Bulgarian companies are included in the resident company's ordinary tax base (except for gains from sales of financial instruments such as shares in collective investment schemes and national investment funds, shares, rights and government securities, performed on a regulated market within the meaning of the Law on Financial Instruments Market which are exempt). Most tax treaties, to which Bulgaria is a party, give the right to charge gains from the sale of a shareholding interest to the state of residency of the receiver of this income. Foreign beneficiaries are subject to a 10% withholding tax rate, unless a treaty relief applies.	Capital gains arising from the sale of a shareholding interest in a Czech company by a Czech non-resident company are treated as Czech-source income and subject to the ordinary CIT rate in the Czech Republic, unless a tax treaty provides otherwise, which is, however, mostly the case. Gains on the sale of shares in a non-Czech company realised by a Czech non-resident would be regarded as Czech source income provided that the buyer of the shares is a Czech resident or a Czech permanent establishment of a Czech non-resident and the shares are considered as tradable securities according to Czech tax law. In such case the capital gain would be subject to the ordinary CIT rate in the Czech Republic, unless a tax treaty provides otherwise, which is, however, mostly the case.	Capital gains realised by non-residents on the transfer of shares (or business quota) in a Hungarian resident company are, in principle, not taxable in Hungary. However, if the company is a real estate company, the capital gains realised at the alienation of its shares by a non-resident could be taxable in Hungary at 9%. Alienation for the purposes of this rule includes: sale, in-kind contribution, transfer without consideration or the withdrawal of shares through a capital decrease. A company qualifies as a real estate company if: - the value of Hungarian real estate exceeds 75% of the aggregate book value of the total assets shown in its financial statement either individually or on a group level (including the taxpayer, its Hungarian tax resident related companies and the foreign related companies having a Hungarian permanent establishment either with or without Hungarian real estate); and	Capital gains from the alienation of shares in a resident company held by non-residents are taxed in accordance with respective provisions of the tax treaty, i.e. either: - CIT exempt in Poland and taxed in the country of non-resident; or - subject to 19% CIT in Poland if the assets of resident company consist wholly or principally of immovable property situated in Poland. In general, where a tax treaty is applicable, taxation will in principle be attributed to the country where the non-resident shareholder is resident by virtue of the applicable tax treaty.	Capital gains derived by a non-resident company without a Romanian permanent establishment from the sale of immovable property located in Romania are taxable at the general CIT rate. See Section 2.3 for the taxation of capital gains derived by a non-resident company from the sale of shares in a Romanian entity. The following types of income are not subject to Romanian withholding tax: - income derived by non-resident collective placement bodies without legal personality from the transfer of securities or shares held directly or indirectly in a Romanian legal entity; - income derived by non-residents on foreign capital markets from the transfer of shares held in Romanian companies or securities issued by Romanian residents. Most tax treaties of Romania allocate the right to tax gains from the sale of a shareholding interest to the state of residency of the receiver of this income. Nevertheless, several tax treaties allocate the right to tax gains from the sale of a shareholding interest in a real estate company to the state where the said real estate is located (i.e. Romania).

Bulgaria	Czech Republic	Hungary	Poland	Romania
		- any of the shareholders of the taxpayer or of a group member is resident for at least one day in the tax year in a non-treaty foreign country, or in a treaty country where the tax treaty allows Hungarian taxation on such capital gains. These rules do not apply if the real estate company is listed on a recognised stock exchange.		

5. Anti-abuse provisions / CFC rules

Bulgaria

CFC rules

There is no CFC legislation.

Thin capitalisation rules

The deduction of interest paid on loans taken from shareholders or third parties (minus the total amount of interest income received) is limited to 75% of the positive financial result (without taking into account interest income and expenses) of the tax obligor.

However, the rules only apply if the borrowed capital of the company exceeds the equity of the company at 3 to 1 debt-to-equity ratio. Interest on bank loans and interest paid under financial lease agreements is only subject to thin capitalisation rules where the arrangement is between related parties. The thin cap rules do not apply to credit institutions.

Transfer pricing rules

The revenue authorities may make an adjustment to the profit arising from a transaction between related or between unrelated persons if such persons have concluded the transaction under conditions that are not at arm's length.

Related companies are defined as follows:

Czech Republic

CFC rules

There is no CFC legislation.

Thin capitalisation rules

Under the Czech Income Taxes Act, financial expenses (interest on loans and other related financial expenses (bank fees, etc.)) are not deductible, if they (i) relate to profit sharing loans or (ii) exceed the 4:1 debt to equity ratio (6:1 ratio for banks and insurance companies) in respect of related party loans. Profit sharing loans provided by related parties are included in calculation of debt to equity ratio, however, the ratio is not applied to financial expenses from these profit sharing loans as they are already fully non-deductible. Back-to-back loans (i.e. loans provided by an unrelated party A to an unrelated party B that are provided under the condition that a directly corresponding loan or deposit is provided to party A by party C while party C and party B are related for Czech tax purposes) are subject to thin capitalisation rules as related party loans subject to a 4:1 or 6:1 debt to equity ratio.

Hungary

CFC rules

New Hungarian CFC rules introduced as of 2017 are the (partial) implementation of the CFC rules as set forth in the Council Directive (EU) 2016/1164 (ATAD).

A foreign company will constitute a CFC if:

- the Hungarian tax resident company holds (directly or indirectly) more than 50% of its shares or holds the majority of its voting rights or is entitled to more than 50% of its profits ('economic influence test'); and
- the effective tax rate on the foreign company's profits is less than 50% of the hypothetical tax that it would have paid, had it been a Hungarian taxpayer in a similar situation ('effective tax rate'); unless
- the foreign company carries out actual business activities in its country of residence ('actual economic activity test'). 'Actual economic activity' shall mean that at least 50% of the combined revenue of the foreign company's related parties resident in the same country derives from manufacturing, processing,

Poland

CFC rules

The Polish residents (both individuals and legal persons) are obliged to report income derived from Controlled Foreign Corporations (CFCs) in a separate tax return and tax that income at the rate of 19%.

A CFC must meet the following criteria cumulatively: (1) a Polish resident holds, directly or indirectly, for a period of not less than 30 days, specific interest in that company – at least 25% share in (i) equity, (ii) voting rights in the management or constituting bodies or (iii) profits, (2) at least 50% of the revenues earned by the foreign company are passive, (3) the controlled foreign company is based in a country with a preferable tax regime (the tax rate is lower by 25% or more than the current corporate tax rate in Poland, i.e. lower than 14.25%) or providing tax exemption (unless dividend is exempt under the Parent-Subsidiary Directive).

A CFC entails (1) each company having its registered office or management in the country included in the list of countries and territories applying harmful tax competition, as published by the Minister of Finance in the relevant regulation (i.e. regardless of the type of revenue

Romania

CFC rules

There is no CFC legislation.

Thin capitalisation rules

Interest expenses related to loans from entities other than authorised credit institutions are primarily limited to:

- the central bank monetary policy interest rate for loans denominated in Romanian Lei; and
- the announced annual interest rate for loans denominated in a foreign currency (currently 4%).

In addition, interest and net foreign exchange losses related to long-term loans from entities other than authorised credit institutions are deductible to the extent the debt to equity ratio does not exceed 3:1. Interest may be carried forward until full deductibility is realised.

Bulgaria	Czech Republic	Hungary	Poland	Romania
- the entities, one of which participates in the management of the other or of its subsidiary, as well as the entities, in the management or controlling body of which participates the same person; - a company or person holding more than 5% of the voting shares in a company; - a person exercising control over the other; - persons directly or indirectly controlled by a third party or its subsidiary; - the persons exercising common control over a third party or its subsidiary; - persons, one of whom is a trade representative of the other; - persons, one of whom has made a donation to the other; - persons, participating directly or indirectly in the management, control or capital of a third party or parties, and therefore they could agree on terms differing from the usual; and - local and foreign person (as well as the shareholders therein), with whom the local person has executed a deal, when: (a) the foreign person is registered in a non EU member state in which the corporate (or similar) tax on the income already realised or to be realised by the	The non-deductible interest under thin capitalisation rules received by a Czech tax non-resident may be reclassified and treated as a dividend for withholding tax purposes (the reclassification must also be allowed by the respective tax treaty). Consequently, the non-deductible interest for the Czech borrowing company may then be subject to dividend withholding tax. This does not apply to interest received by EU, EEA or Swiss tax residents. **Transfer pricing rules** Related parties for the purposes of the transfer pricing rules are broadly defined in relation to 25% share in the capital or voting rights of the other party. Generally, all related party transactions should be carried on at arm's length prices. Otherwise, the tax authorities could adjust the tax base of a company by an ascertained difference between actual and arm's length price. OECD and EU transfer pricing rules were translated and published officially by the Ministry of Finance but they are not incorporated in law and, therefore, they are not legally binding. As a result, there are no contemporary documentation requirements. See Section 2.7 for tax ruling policy on transfer pricing issues.	agricultural activities, commercial services, investment activities, or commercial activities performed with own assets and employees. As an exception, a foreign company meeting the above conditions will not constitute a CFC if at least 25% of the foreign company's shares are held on each day of the tax year by a company or its affiliate that has been listed on a recognised stock exchange for at least five years on the first day of the tax year. It is the Hungarian taxpayer who is liable to prove appropriately that the foreign company does not qualify as a CFC. Also, the Hungarian taxpayer is liable to keep an appropriate register on all transactions falling within the scope of the CFC rules. The register should include, among others, the main elements of the transaction, the contracting parties involved (name, trade registry number, tax ID, etc.) and the terms and conditions of the agreement (scope, starting date, etc.). The lack of documentation would incur penalty payment obligations.	earned by the company, of the share of a Polish resident in such a company or of the fact that the company carries on genuine business activity), and (2) each company having its registered office or management in a country other than that indicated in the list referred to above, with which neither Poland nor the EU concluded an international agreement providing legal basis for exchange of tax information. Revenues of a passive nature shall include dividend and other revenues on participation in the profits of legal persons, revenues on the transfer of shares, receivables, interest and benefits on any type of loans, sureties and guarantees, as well as revenues on copyrights and industrial property rights – including those on the transfer of the said rights, and revenues on the transfer and realisation of rights under financial instruments. The said provisions do not apply to taxpayers controlling companies located in an EU Member State or a state that belongs to the EEA, provided that the foreign company carries on 'genuine economic activity' there. This term has been defined in the provisions of the CIT Act by indication of the sample criteria for carrying on 'genuine economic activity'.	**Transfer pricing rules** Related persons for transfer pricing rules are: - parties who have a direct or indirect (including the participation of an associated person) share of at least 25% of the value / number of shares or voting rights in the other party or controls it; or - parties in which a third person (an individual or a legal entity) holds directly or indirectly (including the participation of associated persons) at least 25% of the value / number of shares or voting rights. Related parties' transactions should be performed at arm's length. Taxpayers are obliged to prepare a transfer pricing file either annually or upon the tax authorities' request, depending on their category (large or medium / small taxpayer) and the amount of related-party transactions. Failure to do so within the established deadline is subject to a fine of maximum RON 14,000, the tax authorities being also entitled to estimate the applied transfer prices and to assess the additional tax liabilities accordingly, if any.

Bulgaria	Czech Republic	Hungary	Poland	Romania
foreign person as a result of the deal is more than 60% lower than the CIT in Bulgaria (unless the local person proves that the foreign person is not subject to preferential tax treatment or that the foreign person has realised the goods / services on the Bulgarian market); and (b) in case of effectuated DTT, the country in which the foreign person is registered refuses to or cannot exchange information regarding the relationship or the deals between the local and the foreign persons; (c) for the purposes of application of this hypothesis of relatedness, each person, regardless local or not, who is controlled by a person covered by the conditions under (a) and (b), is considered a foreign person. Accordingly, for the purposes of application of this hypothesis of relatedness, foreign entities operating in Bulgaria through a PE / fixed base, or foreign individuals realising income from Bulgarian source through a fixed base are considered local persons for the transactions carried through the PE / fixed base. Transfer pricing rules also apply to branches or permanent establishments of non-resident companies in Bulgaria.	**Impact ATAD – CFC legislation Expected as of 2019** Under the CFC rules, corporate taxpayers would be subject to tax on undistributed income of foreign subsidiaries, subject to the following conditions: - The parent (controlling entity) holds, directly or indirectly, at least 50% of the foreign subsidiary (controlled entity); - The tax burden of the controlled entity is lower than 50% of the tax burden which would have been under the tax laws of the state of the controlling entity; and - The income of the controlled entity arises from (i) dividends, interest, licence fees, finance lease, banking, insurance or financial activities; (ii) intragroup transactions with low or zero added value; or (iii) or arrangements which have been put in place for the essential purpose of obtaining a tax advantage. The CFC rules should not apply where the controlled entity conducts substantive economic activities supported by staff, equipment, assets and premises. For the purposes of the CFC, income of the controlled company taxable in the hands of the Czech controlling company is determined pursuant to the Czech tax laws.	**Thin capitalisation rules** Thin capitalisation rules apply to both related and third party debt (excluding debts to financial institutions). Interest paid or deemed interest deductions are non-deductible to the extent that a debt-to-equity ratio of 3:1 (both calculated on a daily basis) is exceeded. Special rules determine the items which qualify as debt and equity for the purposes of these rules. For example: while back-to-back debt would be disregarded, interest-free related party loans would need to be taken into account. Debt to financial institutions is excluded for the purpose of this calculation. **General anti-abuse** There is a general anti-avoidance rule which allows the tax authorities to ignore the legal form of an arrangement between entities and to look at the actual substance or genuine purpose of a contract or transaction ('substance over form principle'). Under an additional general anti-avoidance provision, costs, expenditures and losses related to a contract or a transaction are not deductible for CIT purposes if the purpose of the contract or transaction is mainly to achieve tax advantages.	**Thin capitalisation rules** Polish thin capitalisation rules place restrictions on companies deducting interest on loans granted by: - one or more shareholders holding directly or indirectly a total of at least 25% of the voting rights ('parent company' loans), or - another company, if the same shareholder holds directly or indirectly at least 25% of the voting rights in each of lender and the borrower ('sister company' loans), if the debt-to-equity ratio exceeds 1:1 on the day interest is paid. Interest in excess of this ratio is not tax deductible. Polish CIT Law provides specific rules how equity should be calculated for the purposes of application of thin capitalisation restrictions. The abovementioned thin capitalisation rules only limit the interest paid to related parties. Interest on third party debt will thus always remain deductible. The taxpayers are also entitled to select alternative interest deduction limit regime based on the value of the debtor's assets.	**Substance over form** In determining the amount of any tax or fee, the tax authorities may disregard a transaction that does not have an economic purpose or may reclassify the form of a transaction to reflect its proper economic substance. Also, in case of transactions qualified as artificial (i.e. transactions which do not have economic substance and cannot be used within the frame of usual economic activities, performed with the main purpose to avoid taxes or to obtain tax advantages) the provisions of the relevant double tax treaties (DTTs) are not applicable. **Impact ATAD – CFC legislation / thin capitalisation rules / EBITDA / hybrid mismatch rules** ATAD has not been transposed into the Romanian tax law yet. Recently, the Romanian legislative bodies initiated the procedures for this purpose. Currently, there is no official communique or practice revealing the expected impact of ATAD.

Bulgaria	Czech Republic	Hungary	Poland	Romania
Impact ATAD – CFC legislation Implementing of ATAD in Bulgaria would introduce CFC rules in the local legislation (as there is no CFC legislation in Bulgaria currently). No information was found in the public domain on developments relevant to ATAD as at 26 June 2017 and in particular on any proposals for amendments of the tax legislation or announcement by the government on any opt-outs in respect to the ATAD CFC rules. **Impact ATAD – thin capitalisation rules / EBITDA** As noted above, under the Bulgarian thin cap rule the deduction of interest paid on loans taken from shareholders or third parties (minus the total amount of interest income received) is limited to 75% of the positive financial result (without taking into account interest income and expenses) of the tax obligor, i.e. 75% of its EBITDA. In view of the interest limitation rule (Article 4 ATAD) amongst others, limiting the exceeding borrowing costs to 30% from EBITDA amendments in the Bulgarian thin cap rule could be expected. No information was found in the public domain on developments relevant to ATAD as at 26 June 2017 and in particular on any proposals for amendments of the local legislation in respect to the Bulgarian thin cap rule.	It is anticipated that there will be mechanisms preventing double taxation, e.g. the set-off of foreign tax against domestic tax in the CFC regime or the set-off of domestic tax paid in the CFC regime against the tax paid upon subsequent distribution of profits of the controlled company. **Impact ATAD – thin capitalisation rules / EBITDA** (Expected as of 2019) Under the new rules, interest costs should only be deductible up to 30% of EBITDA. This limitation should not apply to legal entities whose interest does not exceed EUR 1 million per annum (the de minimis rule). It should be possible to carry forward non-deductible interest cost (without any time limitation) and to deduct it up to 30% of EBITDA in later years. The interest deductibility limitation should not apply to financial undertakings or standalone entities (which should be defined either according to the rules for consolidation under accounting regulations or according to the definition of related enterprises for the purposes of income tax). However, these undertakings and undertakings below the de minimis should still be subject to the existing thin capitalisation rules limiting the tax deductibility of interest on related-party financing (see above).	The 'abuse of law' doctrine applies in Hungary to contracts and transactions entered into or performed. This means that rights and transactions must be exercised and carried out properly and lawfully, in line with their specific purpose and in line with the constitutional obligation of contributing to public spending. The doctrine allows the tax authorities to assess on the basis of all relevant facts and circumstances, tax liabilities stemming from contracts, transactions or other arrangements that are considered to have the sole purpose of circumventing tax provisions and avoiding taxes. **Transfer pricing rules** The transfer pricing rules are generally based on the OECD guidelines and state that transactions between related parties must be at arm's length for taxation purposes. Transfer prices must be documented. In addition, related party status also applies where a controlling influence on business and financial policy exists between two entities based on their identical management. **Impact ATAD – CFC-legislation / thin capitalisation rules / EBITDA / hybrid mismatch rules** See comments above.	Under this method, the interest deducted as tax costs in given tax year cannot exceed (i) product of National Bank of Poland reference rate prevailing on the last day of the year preceding the tax year (currently 1.5%) plus 1.25 percentage points and the tax value of taxpayer's assets (excluding intangible assets) and (ii) 50% of debtor's operating profit. Under this method, limits of deductibility of interest is applicable to all loans (both from related and unrelated lenders). The interest not deducted in a given year (i.e. interest exceeding limits) is deductible over the next five consecutive years. **Transfer pricing rules** The Polish CIT Law contains transfer pricing regulations. Such regulations authorise the tax authorities to assess the income on the transaction between related parties if the authorities consider it as being not at arm's length. In addition, Polish taxpayers must prepare transfer pricing documentation regarding transactions with related parties as well as with entities from low-tax jurisdictions listed in the Regulations of the Minister of Finance.	

Bulgaria	Czech Republic	Hungary	Poland	Romania
Impact ATAD – hybrid mismatch rules In respect to hybrid mismatch rules it should be mentioned that the rule under Council Directive 2014/86/EU of 8 July 2014 amending PSD outlined under 2.2 above was implemented in Bulgaria and in force as of 1 January 2016 i.e. dividends distributed by foreign EU / EEA tax resident entities are exempt from CIT, except where such distributed amounts are deductible for tax purposes at the level of the distributing subsidiary. Bulgaria also has special rules regulating recognition for tax purposes of accounting revenues and expenses and transfer of assets resulting from transfers between Bulgarian PE and other parts of the foreign company. However, since there are no fully developed hybrid mismatch rules in Bulgaria it could be expected that the Bulgarian legislation may be adapted to reflect the ATAD hybrid mismatch rules. However, no information was found in the public domain on developments relevant to ATAD as at 26 June 2017 and in particular on any proposals for amendments of the tax legislation or announcement by the government in respect to the ATAD hybrid mismatch rules.	**Impact ATAD – hybrid mismatch rules** (Expected as of 2020) The method of implementation of this rule in the Czech Republic is not clear as of yet, and implementation is anticipated to be effective as of 2020 at the earliest, due to the technical complexities involved. **Impact ATAD – GAAR** Czech tax law is generally considered to already include sufficient GAAR (See Section 2.2), so no amendment to explicitly include the ATAD GAAR is expected.		If a taxpayer fails to submit the statutory transfer pricing documentation within seven days from the tax authorities' request and the tax authorities assess additional taxable income resulting from a transaction, the difference between the income declared by the taxpayer and the income assessed by the tax authorities is subject to a 50% penalty tax rate. **Impact ATAD – CFC-legislation / thin capitalisation rules / EBITDA / hybrid mismatch rules** Until today, drafts of Polish legal provisions implementing the ATAD Directive and general status of works are not disclosed to the public.	

Bulgaria	Czech Republic	Hungary	Poland	Romania
In respect to ATAD 2 regulating hybrid mismatches involving third countries it should be noted that pursuant to bulletin of the Ministry of Finance from December 2016 Bulgaria upheld the common approach in respect to ATAD 2 with the understanding that a compromise suggestion would cover most of the possible ways for using the inconsistencies between legislations of the states, not only on EU territory but also globally. Based on the Bulgarian position on the MLI, it should be mentioned that Bulgaria has chosen not to apply the hybrid mismatch rules under Article 3-5 thereunder.				

6. Tax and investment incentives

Bulgaria	Czech Republic	Hungary	Poland	Romania
Bulgaria has tax and investment incentives for both resident and non-resident investors for investments in municipalities with unemployment, which is higher than the average, as qualified by the Minister of Finance. A generally available incentive not restricted by the type of investment activity performed is related to hiring of unemployed individuals. A legal entity is entitled to decrease its financial result with certain amounts provided it has hired a person under an employment relationship for not less than twelve successive months who, at the time of hiring, was: - registered as unemployed for more than one year; or - a registered unemployed person over the age of 50 years; or - an unemployed person with reduced working capacity. The authorised by law one-time deduction from the financial result of the company refers to the amounts paid for labour remuneration and the contributions remitted on the account of the employer to the public social security funds and the National Health Insurance Fund during the first twelve months after the employment of specified employees.	Certain limited costs for research and development and for vocational education, which have already been included in the accounting profit and considered tax deductible, may be deducted from the tax base for the second time as a special tax allowance. Other tax incentives are provided in a form of up to 10 year tax holiday (tax relief) based on the approved investment project in manufacturing industry, building of technological centres and strategic services.	A large number of incentives are available e.g. relating to material investments, investments in intangible assets (e.g. IP rights), investment in certain under-developed regions, environmental investments, employment enhancing investments, etc. Some of these incentives take the form of a tax credit applicable for a given percentage of the qualifying investment (e.g. development incentives); while others trigger a special allowance which is deductible from the taxable base in addition to the investment costs which have already been recognised in the company's accounting profits (e.g. R&D incentives).	There are very attractive CIT incentives for investors in special economic zones (SEZ) in Poland. A SEZ is a demarcated, greenfield / brownfield area where business activities may be conducted under special conditions. Currently, there are 14 SEZs in Poland. The main benefit of operating in a SEZ is the possibility of obtaining an exemption from the 19% Polish CIT. Depending on the given SEZ location, the CIT exemption cannot exceed the maximum intensity of public aid, i.e. up to 50% (60% or 70% for SMEs) (although in the most popular SEZ areas the intensities would typically be much lower, ranging between 20% (15 or, as from 2018, 10 percent in Warsaw) and 35% of the eligible costs) of the higher amount of: - the eligible investment cost; or - the two-year labour costs of new staff employed for the purposes of the investment. The value calculated as mentioned above indicates the amount of CIT that may not be paid by an investor. The amount of CIT exemption may be used until the end of SEZs, i.e. currently the end of 2026.	No significant tax incentives are currently provided under Romanian law. The Romanian legislation contains a general framework for stimulating investments in certain fields of activity and provides for certain regional state aid schemes. The Romanian legislation provides for the following main incentives: - The profit reinvested in technological equipment produced and/or purchased after 1 July 2014 is exempt from CIT, under certain conditions. - A supplementary deduction may be claimed, for profits tax purposes, amounting to 50% of research and development expenses. - The accelerated depreciation method may also be applied for machinery and equipment used for research and development activities. - Taxpayers have the possibility to reschedule the payment of tax liabilities for a maximum period of five years, under certain conditions.

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Investors may enjoy tax incentives of 100% deferral of the CIT due for the manufacturing activity upon meeting a number of criteria provided for by the law. Briefly, said requirements include: - the investor should perform manufacturing activity only in municipalities having unemployment rate for the previous year exceeding with 25% or more the average rate in the country for the previous year (for minimal aid), respectively for the year preceding the year of filing of the standard form aid application (for state aid for regional development); and - certain requirements for granting of a tax incentive representing de minimis aid or the requirements for granting of a tax incentive representing state aid for regional development are fulfilled. Incentives regarding donations and provision of scholarship are also available upon fulfillment of the eligibility requirements therefore.		One of the incentives to note is the incentive available for IP investment. Similar to the participation exemption rules on the taxation of capital gains from the alienation of 'reported shares', capital gains derived by a Hungarian company on the disposal of certain qualifying valuable rights (e.g. IP rights) could be exempt from CIT, under the following conditions: - the rights are owned for at least one year; and - the acquisition of the rights has been duly reported to the Hungarian Tax Authority within 60 days from the acquisition / transfer of the place of effective management to Hungary. This incentive allows a tax free step-up in asset value. With the above incentive, together with the incentives on royalty income (see Section 2.1) and the lack of domestic WHT on royalty payments, Hungary offers an attractive IP regime.	An investor may benefit from the CIT exemption by obtaining a permit for business activities within a SEZ. Several types of activity do not qualify for a permit, e.g. manufacturing explosives or tobacco. There are certain conditions for eligibility for the CIT exemption. As a rule, the SEZ permit is granted for business activities to be performed on a plot of land already located within the SEZ. Alternatively, the territory of a SEZ may be extended. In addition, the work on the project must not start before the application for the SEZ permit is filed. The SEZ tax exemption is treated as compatible state aid for investments under EU rules. The total amount of public aid for investments from various sources, including SEZs and grants, cannot exceed the above limits of the maximum intensity of public aid.	

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			Research and development incentive Since 1 January 2016, on the basis of the new tax relief, it is possible to deduct from the taxable base certain qualified expenditures incurred for R&D activities (notwithstanding their prior deduction as an ordinary cost under the general rules). The new provisions contain a closed list of such expenditures, which should also qualify as tax-deductible costs under the general tax rules. Deduction may be made up to a certain limit depending on the type of cost and/or type of taxpayer, namely: - for employment costs, up to 30%, regardless of the taxpayer status; - for other qualified expenditures, up to 50% for small and medium enterprises; and - up to 30% for large enterprises. Qualified expenditures ought to be deducted in the year in which they were incurred, and if the taxpayer does not generate sufficient income or incurs a loss in this particular year, in the period of six consecutive fiscal years directly following the aforesaid year. There are several conditions requested for an application of a new R&D tax relief.	