



# Multilateral Instrument Are you prepared?

Check if your tax treaty benefits are at risk!

It used to be fairly simple to streamline operations and costs for cross-border operations, while at the same time making use of benefits available under tax treaties. The Netherlands, with its infrastructure, stable political climate, attractive tax rules and extensive network of tax treaties, is regarded as an excellent jurisdiction for such international structures.

However, things are set to change as of January 1, 2020. With the introduction of the Multilateral Instrument (MLI) and more specifically the Principal Purpose Test (PPT) in the MLI, many tax treaties will change as of that date.

As a result, your company might be risking higher taxes because certain tax treaty benefits could be refused.

If you are using international company structures that make use of treaty benefits, you might be at risk of being affected by the MLI. Tax treaty benefits may include a lower withholding tax rate for dividends, interest payments and royalties, but also the beneficial allocation of taxation rights and the determination of fiscal residence.

As the first tax treaties are set to change as of January 1, 2020, the time to take action is now!

## But how do you know you are at risk?

If the answer to *any of the questions below is yes or maybe*, your company may be affected by the MLI.

-  **Was** the availability of a treaty benefit a consideration when the entity was set up?
-  **Does** or will this entity receive (substantial) income which benefits from the treaty?
-  **Does** the entity distribute or on-pay the income that enjoyed tax treaty benefits to other entities in your group?
-  **Are** the economic and commercial reasons for setting up the entity not immediately obvious?

Did you answer 'yes' or 'maybe' to any of these questions?

Then your existing tax treaty benefits may change or even become non-existent as of January 1, 2020.



# KPMG helps you prepare!

The complexity of the MLI and the complexity of your company structure might make it difficult for you to determine whether you are at risk, let alone what your next steps should be.

At KPMG we have MLI specialists who can provide you with specific guidance regarding the MLI and on the application of the PPT by local tax authorities. We can help to:

- Determine whether there is a potential issue in the jurisdictions most relevant for you.
- Provide guidance on the application of the MLI and PPT by local tax authorities.
- Determine steps to mitigate or avoid the impact of the MLI and PPT.

Our global approach is coordinated by KPMG MLI specialists.

If you require assistance or if you would like to know if your company is at risk, please contact one of the specialists listed below.

Our approach is designed to help you identify and measure potential risk areas and help you work towards a sustainable solution.

## How to prepare?

### Scan

- » Profile your structure and identify potential risk areas.
- » Gain insight into the group structure, the various transactions and the income streams between the group entities.
- » For which of these transactions or income streams do you require treaty benefits?
- » Determine which countries should be further assessed.

### Measure

- » Measure the risk by performing an in-country analysis for the countries selected in the scan.
  - » How will these countries implement the MLI, the PPT and associated rules?
  - » What is the experience with the local tax authorities' position towards similar structures?

### Solve

- » How can you improve your situation to avoid or mitigate the impact of the MLI?
  - » Design a MLI-proof and sustainable structure with you.
  - » Some actions may be needed before January 1, 2020 and might include the restructuring of entities, routing income streams differently, adding more substance in certain locations etc.

## Specialists:



**Meijburg & Co**  
Tax & Legal

#### For further information

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