

## Payment to tax havens: which countries are tax havens?

Belgian companies or companies subject to the non-resident taxation (BNI) should report payment to tax havens. The countries which are considered as tax havens are periodically reviewed. On 1 March 2016 a royal decree was published containing a new list of tax havens. We take a look at the principle and the new list.

### The principle

Tax payers which are subject to corporate tax or non-resident corporate tax should report direct or indirect payments made to persons established in a tax haven. This obligation applies as from the moment they pay more than 100.000€ to tax havens during a taxable period. They should fill out and file form 275F.

If the company does not report the payment, the expenditure is not deductible as a cost.

### What is a tax haven?

For these rules a tax haven is defined as:

- a country which during the full taxable period in which the payment took place is considered by the OECD's Mondial Forum regarding transparency and exchange of information as a country not effectively or substantially applying the standard in this respect = countries not sufficiently cooperating with exchanging tax information, currently no countries are (any longer) on this list;
- a country without tax or with low tax rates. As low tax rate is considered a tax with a standard rate lower than 10%. These countries were registered on a limitative list enacted by royal decree. This means that countries not figuring on this list, are not considered as tax havens.

### The new list

Every once in a while the list is reviewed and adapted: countries disappear from the list, others appear on the list. Since 1 March 2016 a new list is applicable. The list applies for payments made as from 1 January 2016.

These countries are (in alphabetical order): Abu Dhabi, Ajman, Anguilla, the Bahamas, Bahrain, Bermuda, the British Virgin Islands, the Cayman Islands, Dubai, the Isle of Man, Fujairah, Guernsey, Jersey, the Marshall Islands, Micronesia, Monaco, Montenegro, Nauru, Palau, Pitcairn, Ras al Khaimah, Saint-Barthelemy, Sharjah, Somalia, Turkmenistan, Turks and Caicos, Umm al Qaiwain, Uzbekistan, Vanuatu and Wallis-en-Futuna.

Disappeared from the list: Andorra, Jethou, the Maldives, Moldavia and Sark.

### Other lists

Watch out, this list only applies to payments made to tax havens. In the royal decree executing the Income Tax Code, aka KB/WIB92, article 73/4quater also contains a list of 'tax havens'. It concerns countries having a considerable better beneficial tax regime than Belgium. This list is of importance for the defined tax income deduction (dividends received from subsidiaries established in these countries). This is another list, partially containing other countries. Also this list was modified with a royal decree of 1 March 2016.

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