

Identifying tax haven companies used for tax avoidance and related control measures

Experiences of the Finnish Tax Administration

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Identifying tax haven companies used for tax avoidance

- The Finnish Tax Administration has been conducting comprehensive analyses and investigations of foreign companies owned or controlled by Finnish resident individuals or entities for more than ten years.
- In addition to CRS data, offshore structures may be identified through various sources, for example:
 - Advance tax ruling applications submitted by taxpayers.
 - The use in Finland of foreign payment cards issued in the name of an offshore company.
 - Transfers from offshore company bank accounts that appear on Finnish owners bank accounts ("follow the money").
 - Business registers
 - Data leaks



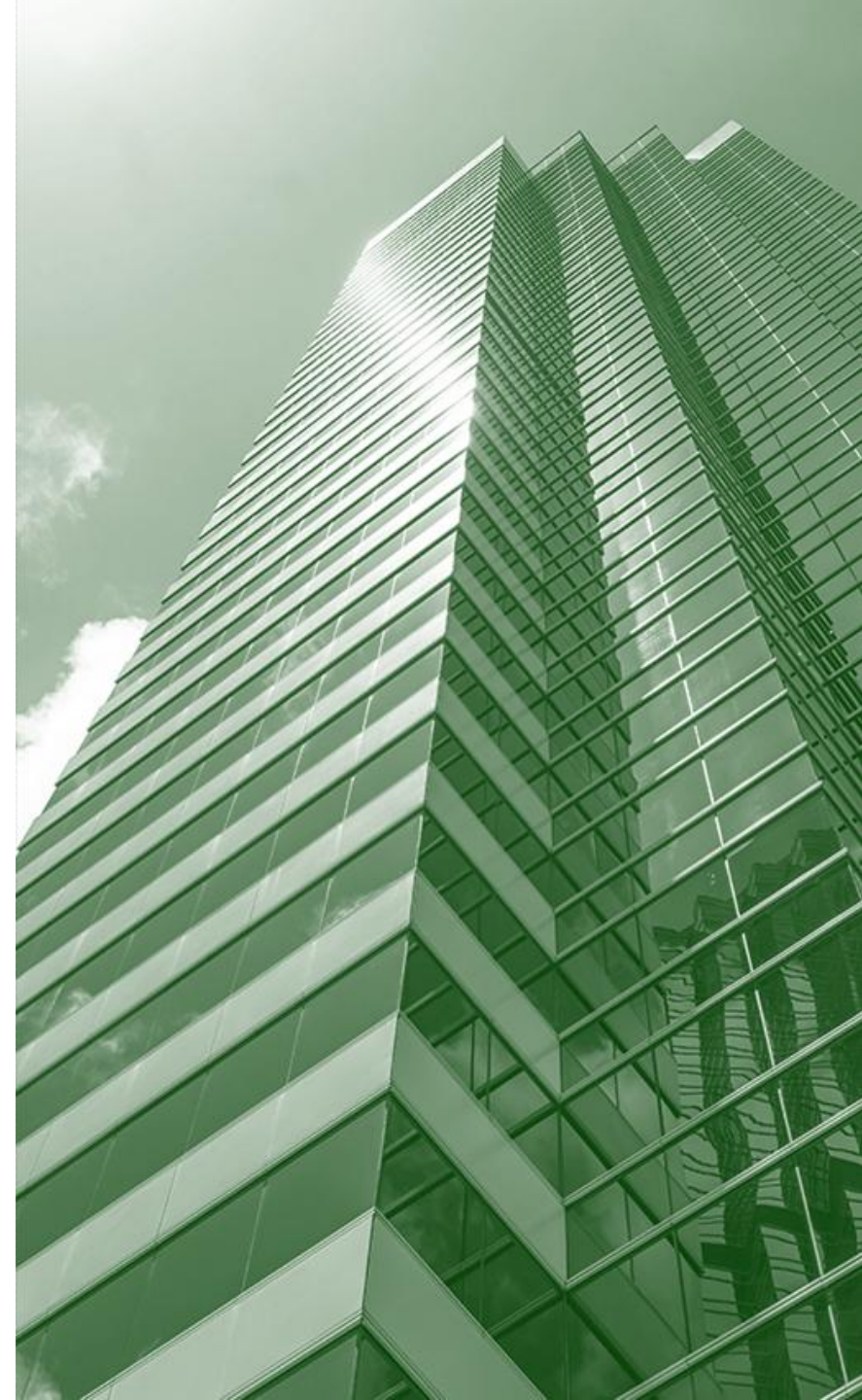
Identifying tax haven companies used for tax avoidance

- Companies used for tax avoidance are usually found in well-known tax havens where the effective level of corporate taxation is zero or very low, for example:
 - Bahamas, British Virgin Islands, Panama, Hong Kong, United Arab Emirates, Seychelles, Guernsey, Jersey, Cayman Islands, Isle of Man
- In addition, several jurisdictions offer significant tax advantages for investment holding companies. For example, capital gains may be broadly exempt from taxation, or an investment company may be fully exempt from tax (such as Luxembourg SPF companies), even where the statutory corporate income tax rate is at normal average level. Examples of such jurisdictions include:
 - Luxembourg, Switzerland, Malta, Cyprus

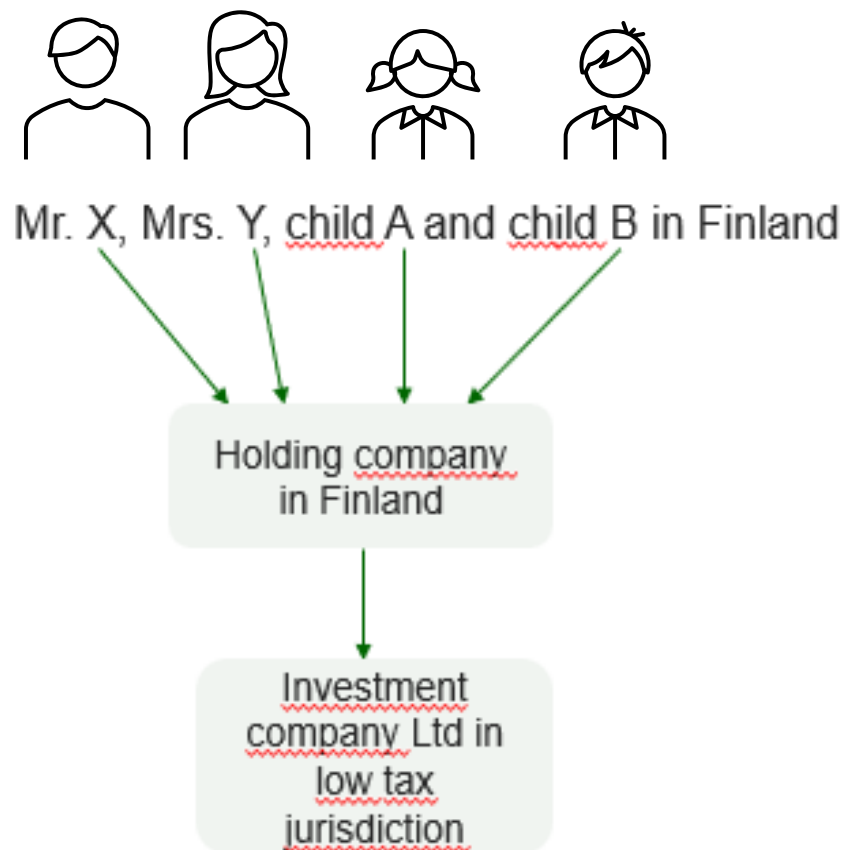


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- When analysing foreign companies, it is essential to examine the actual business activities and substance of the foreign company.
- Indicators in the financial statements suggesting a lack of genuine economic substance include:
 - The company has no employees and no payroll expenses, or only minimal payroll expenses.
 - The company's income consists solely or mainly of investment income.
 - The company has no business premises, equipment, or other operating assets.
 - The company's registered address is the address of a local corporate services or administrative services provider.
 - The company's directors or officers are employees of a local corporate services provider and serve as directors of dozens or even hundreds of companies.



Common tax haven structures:



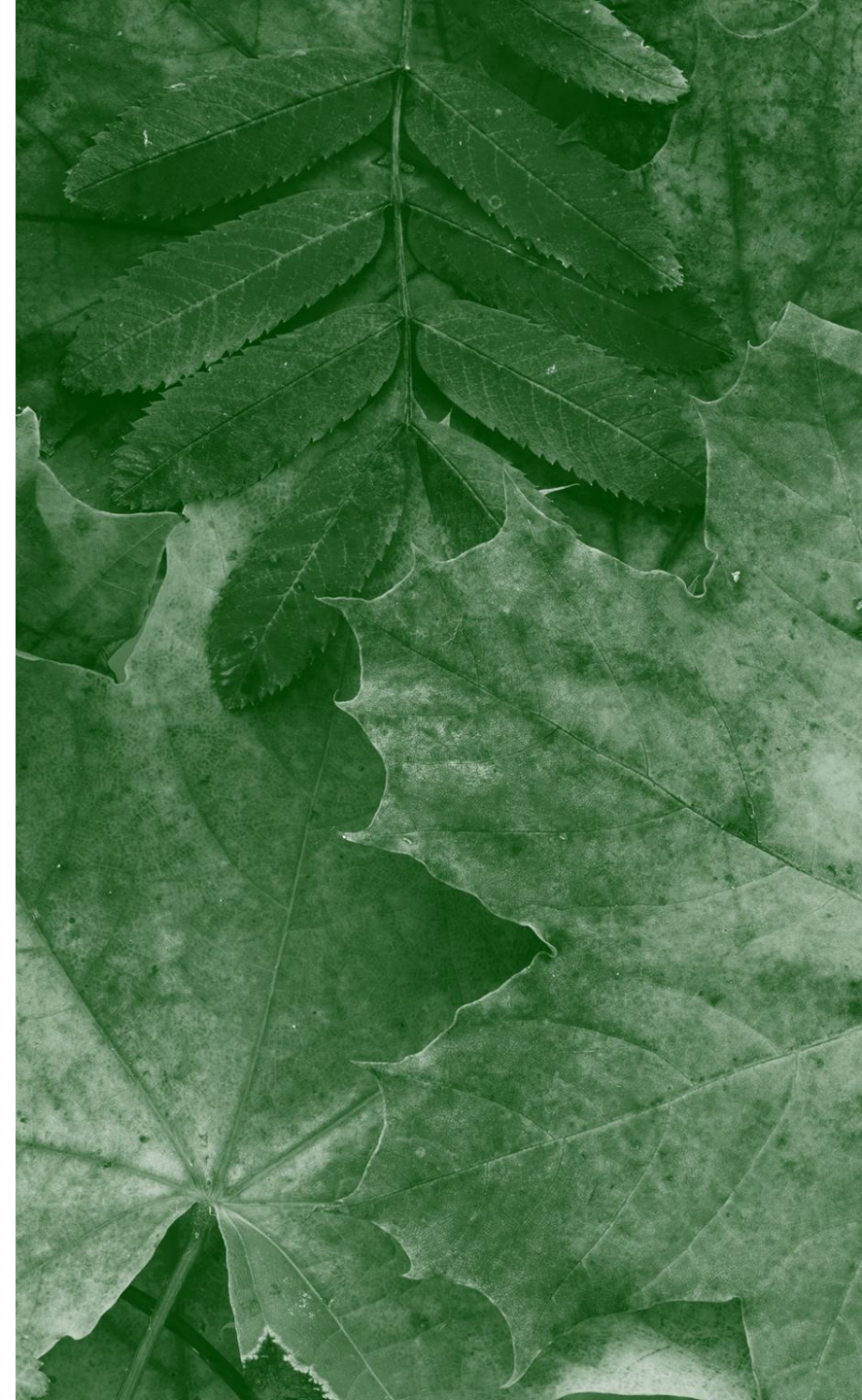
Related control measures for tax haven entities

- The Finnish Tax Administration conducts tax audits involving offshore and tax haven companies where there are indications of tax avoidance.
- Under Finland's Controlled Foreign Company (CFC) rules, the income of a company resident in a low-tax jurisdiction may, subject to the statutory conditions being met, be taxed as income of its Finnish resident owner (whether an individual or a company). Finland's CFC rules also apply to natural persons. The Finnish CFC regime is based on the EU Anti-Tax Avoidance Directive (ATAD).
- If, during a tax audit, a foreign company is found to have its place of effective management in Finland, the company may be deemed tax resident in Finland and consequently subject to Finnish taxation on its worldwide income.
- Foreign companies may also be used to distribute undeclared income to their owners
- In some cases, shares in foreign companies have been sold to owners' children at below-market value. This may lead to gift taxation.



Related control measures for tax haven entities

- In tax audits involving offshore companies, we request comprehensive information from the Finland-resident owner or beneficiary of the company or trust, including details of the entity's activities, ownership structure, financial statements, tax assessments, bank statements, board meeting minutes, and other relevant documentation. (In some tax havens, companies do not have to prepare financial statements)
- Quite often, the owner does not provide all of the requested information. In such cases, we submit an international exchange of information request under an applicable tax treaty and/or the EU Directive on Administrative Cooperation (DAC).
- In some cases, it is necessary to determine whether the owner of the company is tax resident in Finland.



Related control measures for tax haven entities

- The CFC rules do not apply if the company carries on genuine economic activity in its country of residence.
- To assess this, during a tax audit we may request the employment contract of the company's employee, who is often employed on a part-time basis, together with information regarding the employee's authority and responsibilities within the company, for example with respect to investment decision-making.
- Where necessary, we also request more detailed information regarding the company's business premises, equipment, and other operational resources.



Related control measures for tax haven entities

- Based on the information obtained during the audit, we can perform an overall assessment of whether the company carries on genuine economic activity in its country of residence. This includes having business premises, equipment, and personnel who independently make business decisions.
- If the company does not carry on genuine economic activity in its country of residence, its income may be taxed as the income of its Finland-resident owner under the CFC rules, or the company may be considered tax resident in Finland on the basis of its place of effective management.



Recent developments regarding the role of tax haven jurisdictions in global profit shifting

- In Finland, taxpayers nowadays only rarely establish companies in tax havens. Finland's controlled foreign company (CFC) legislation, effective place of management rules, and the Finnish Tax Administration's supervisory measures work fairly effectively and help prevent new arrangements before they are implemented.
- The use of crypto-assets in investment activities has also become more common.
- Some foreign nationals who move to Finland and become Finnish tax resident may own tax haven companies or may be beneficiaries of foreign trusts or foundations.
- In Finland, wealthy investors increasingly invest through foreign investment-linked insurance products and closed-end funds.





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Thank you! Questions?