

## Danish Parliament adopts OECD's MLI

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On 28 March 2019, the Danish Parliament enacted Bill No. L 160 adopting the Organisation for Economic Co-operation and Development (OECD)'s *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS* (the MLI).

### Covered Tax Agreements

The list of covered tax agreements provided by Denmark contains all treaties concluded by Denmark that are currently in force except for the tax treaties with Germany, Greenland, Japan, the Netherlands, the Nordic countries and Switzerland. The tax treaty with Japan is based on the 2017 OECD Model Tax Convention and incorporates the relevant MLI provisions. The tax treaties with Germany, the Netherlands and the Nordic countries have recently been amended through bilateral negotiations in order to incorporate the minimum standards of the MLI.

### Denmark's options and reservations

Denmark has adopted all provisions of the MLI including arbitration.

Denmark has made the options and entered the reservations set out below in the table.

Article of MLI	Subject	Option / Reservation
Article 5(1)	Elimination of Double Taxation	Option C
Article 7(7)	Prevention of Treaty Abuse	Option a)
Article 9(3)	Capital Gains from the Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property	Article 9(4)
Article 13(1)	Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemption	Option A
Article 17(3)	Corresponding Adjustment	Reservation a)
Article 18	Arbitration	Part VI adopted
Article 19(12)	Mandatory Binding Arbitration	Reservation a) and b)
Article 23(3)	Type of Arbitration Process	Article 23(3) adopted
Article 23(4)	Type of Arbitration Process	Article 23(5) adopted
Article 23(7)	Type of Arbitration Process	Article 23(7) adopted
Article 24(1)	Agreement on a Different Resolution	Article 24(2) adopted
Article 28(2)	Reservations	1) Part VI (Arbitration) is not applicable with regard to covered tax agreements with other EU Member States. 2) Part VI (Arbitration) is only applicable with regard to covered tax agreements if the other party accepts that a) the chairman of the arbitration panel must be a judge, and b) that Denmark publishes a summary of the decision. 3) Part VI (Arbitration) is not applicable in cases where a taxpayer has been imposed sanctions for tax fraud, willful default or gross negligence.
Article 35(3)	Entry into Effect	Article 35(3) adopted

## Timing

The MLI will enter into force with respect to specific tax treaties after both treaty parties have deposited its instrument of ratification, acceptance or approval of the MLI and a specified time has passed. Denmark intends to deposit its instrument of ratification after 1 July 2019. The specified time differs for different provisions. For provisions relating to withholding taxes the earliest entry into force date will be 1 January 2020. For provisions relating to other taxes the earliest entry into force date will be 1 January 2021.

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