

# ESCAPING POVERTY — OR TAXES?

A DanWatch investigation of tax planning opportunities in IFC-supported extractives projects in developing countries

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RESEARCH:  
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**IBIS**

This is an independent DanWatch study conducted in accordance with DanWatch's ethical guidelines and international principles on the conduct of journalists. DanWatch is fully responsible for the contents of the study.

DanWatch is an independent non-profit research centre and media that investigates corporations' impact on humans and the environment globally.

The study is commissioned by the Danish development organisation IBIS. Based on DanWatch's findings IBIS has provided a number of recommendations for IFC that are attached to the end of the report.



## 1. Summary

The World Bank's private-sector entity - the International Finance Corporation (IFC) - seeks to increase tax payments to the government in developing countries through supporting their natural resource projects. This report documents that this aim can be undermined by IFC-clients' tax planning. IFC's response is that "it is not likely to be true in almost all projects within the extractive industries".

IFC wants to "create opportunity for people to escape poverty and improve their lives" through private-sector development in poor countries. Oil, gas and mining companies are among those receiving support from IFC. For each project IFC mentioned, the "generation of revenues for government in the form of royalties and taxes" are expected as a development outcome. It estimates that authorities in developing countries received 7 billion US dollars from IFC-supported extractives projects in 2009.

This report shed light on the methods IFC's clients in the extractive sector can apply in lowering their tax payment to authorities in the developing countries. A new method is used to categorise and analyse the corporate structure behind each of IFC's extractive-projects on the basis of tax-planning theory related to foreign direct investments (FDI).

## Key findings

The report identifies two key aspects of corporate tax planning that IFC extractive-clients can use to erode the host countries' tax base:

1) More than a third of the countries hosting IFC's extractive projects have no specific policies on thin-capitalization. This means that IFC's extractive-clients can minimize tax payments in these countries by injecting as much debt and as little equity as possible into their subsidiaries in these developing countries. Thereby they receive an interest deduction rather than paying taxes on dividends to the host country.

2) 57 pct. of the companies analyzed in IFC's extractives portfolio have channelled their investment in developing countries through an intermediate holding company in a tax haven.

The tax haven intermediate company can be used to thinly capitalize an operating subsidiary and on top of that overcharge payments from the same entity (transfer mis-pricing). IFC responds that it is "likely to have very little to no impact on what is paid in the mineral source country".

An example from an OECD Policy Brief on the tax effects of FDI shows that: a company can reduce its average tax rate on a foreign direct investment from 30 pct. down to as low as 0,5 pct. through tax planning strategy involving a tax haven conduit.

IFC will not disclose any details on which governments received the 7 billion they reported as the total government income from IFC's extractive-industry clients. Which companies paid the money it will not disclose either. IFC asks companies to disclose government contributions on its web-page, but only a minority are so far obliged to provide this information.

## 2. Research methodology

This report is the result of extensive research conducted in the spring and summer of 2011. All projects in IFC's extractives portfolio from 2010 have been researched based on publicly available company information. Companies with accessible data have afterwards been divided into categories based on the corporate structure behind each project. Afterwards the identified structures have been compared to relevant theory on the linkages between foreign direct investments (FDI) and tax-planning.

The report focuses on the corporate structures because these kinds of data are relatively accessible. Other relevant data such as detailed corporate tax information on a country-by-country basis is not available - not through a public institution as IFC either. Moreover, the subsidiaries' accounts in developing countries are extremely hard to get.

The basic descriptions of the linkages between tax planning and FDI are mainly derived from 2008-study written by Steven Clark, Head of Horizontal Programmes Unit, OECD Centre for Tax Policy and Administration (CTPA). This report is supplemented with a 2010 MIT Press publication by J. Mintz and A. Weichenreider called "The Indirect side of Direct Investment - Multinational Company Finance and Taxation".

The main focus of this report is tax losses in developing countries. As a consequence, the distinction between legal and illegal tax planning is not decisive because both can lead to tax losses in developing countries.

The report is conducted and published in accordance with international standards for the conduct of journalists which includes the right of fair comment and criticism. Therefore a number of interviews with IFC have been conducted during the research process.

The final report has been sent to IFC and the companies mentioned as examples in the report before publication in order for cross checking of data and an opportunity of hearing the firms' viewpoints.

### DEFINITION OF TAX HAVEN

There is no generally accepted definition of a tax haven. This report uses OECD's definition:

- No or nominal tax on the relevant income
- Lack of effective exchange of information
- Lack of transparency
- No substantial activities<sup>I</sup>

<sup>I</sup> [http://www.oecd.org/document/23/0,334,en\\_2649\\_33745\\_30575447\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/23/0,334,en_2649_33745_30575447_1_1_1_1,00.html)  
- <http://www.oecd.org/dataoecd/38/17/1909369.pdf> (26/09-2011)

## 3. IFC on tax

The World Bank was established in 1944 in order to finance the reconstruction after the Second World War. Today the organisation's main purpose is to combat poverty by providing loans to poor countries. The World Bank is currently owned by 187 countries, including Denmark.

Denmark is represented in the World Bank's Executive Board through the Nordic-Baltic office, where Denmark currently holds the position as Alternate Executive Director<sup>I</sup>.

Denmark is also among the donors to the World Bank's private-sector entity - the 'International Finance Corporation' (IFC)<sup>II</sup>. The aims of IFC is to promote growth in Developing Countries through investments in and loans to private companies with activities in developing countries and create a better framework for the private sector in developing countries.

IFCs expectations for the projects it engages in are published on its website, [www.ifc.org](http://www.ifc.org). For each project IFC has a page called 'Summary of Proposed Investment' where the anticipated

<sup>I</sup> <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/BODEXT/EXTEDS20/0,,contentMDK:20185529~menuPK:393438~pagePK:64099144~piPK:64099061~theSitePK:393429,00.html>  
- date 27/7-2011

<sup>II</sup> <http://www.ifc.org/ifcext/about.nsf/Content/Donors>  
- date 5/7-2011

development impact of the project is described.

The generation of government revenue is among the expected development impacts listed here. A typical wording is that the project will lead to the 'generation of revenues for government in the form of royalties and taxes'.

### TAX EVASION AND AVOIDANCE

In 2010 the World Bank Group published a statement on tax evasion:

"Tax evasion is unacceptable in any part of a transaction in which the World Bank Group is involved. Strengthening tax systems and anti-corruption efforts in developing countries is at the center of the World Bank Group's strategy for curbing tax evasion and appropriate use of public resources."<sup>III</sup>

IFC has sent the following comment to the findings of this report:

"....the idea that extractive industries companies are likely to change the amount of tax they pay their host governments through the use of companies registered in offshore centers. This is an underlying assertion for much of the report and not likely to be true in almost all projects within the extractive industries. Local taxes are set either by standard terms and conditions that apply to all developers or in some cases by negotiation. The taxes due to the host government are very unlikely to be impacted by the

<sup>III</sup> [http://www.ifc.org/ifcext/about.nsf/Content/Due\\_Diligence](http://www.ifc.org/ifcext/about.nsf/Content/Due_Diligence) - date 5/7-2011

home base of the investing company. Foreign based companies may, in fact, sometimes pay more tax to the host country than locally based ones because dividend remittance taxes, if applied, may only be applied to dividends paid to foreign owners. It is possible that the use of offshore jurisdictions may impact the timing or the amount of tax ultimately paid to the home country of the investing company but this is likely to have very little to no impact on what is paid in the mineral source country.”<sup>IV</sup>

## 4. IFC extractive-clients’ corporate structures

### IFCS ENGAGEMENT IN NATURAL RESOURCE EXTRACTION

Natural resources’ contribution to development is a key focus area within IFC. The aim is ‘to help developing countries realize sustainable economic benefits from natural resources’. This includes providing benefits for host communities and countries in terms of job creation, infrastructure and economic benefits.<sup>I</sup>

This aim is achieved by providing finance and advice for companies and by supporting developing country government’s regulatory frameworks. In 2010 IFC had invested more than 1 billion US dollars in extractives which accounted for 8 pct. of its total portfolio.

IFC requires that projects must meet certain criteria to be able to receive funding. First of all, the project must be located in a developing country that is a member of IFC. The term ‘developing country’ is broadly defined, since the list of project countries includes middle income countries.

Moreover, IFC states that it prioritizes projects

that are technically, environmentally and socially sound and have good prospects for earning money and benefiting the local economy. Apart from that IFC functions like any other private sector investor and commercial lender which expect the same profits and take the same risks, and has prices in line with the market.”<sup>II</sup>

### ANALYSIS OF CORPORATE STRUCTURES

The section provides an analysis of IFC’s extractives project portfolio from 2010<sup>III</sup> which contained 69 oil, gas and mining projects. The majority of the projects are located in Africa or Latin-America. Among the companies listed in IFCs 2010 portfolio many are oil and mining companies based in Canada, UK, Australia and the United States.

The first step of the analysis was to go through all of the projects in the portfolio and identify the typical corporate structures behind each project IFC has invested in or provided loans for. The reason is that companies’ international structures are closely linked with their tax planning opportunities and strategies.

The details of the analysis can be found in appendix A. The table below gives an overview of the findings.

The table shows that 90 pct. of the accessible company data have integrated a tax haven entity in the corporate structure. Only 10 pct. has no visible tax haven linkages. 57 pct. of the analysed companies have intermediate holding companies in tax havens. 22 pct. has located the operating subsidiary in a tax haven.

	Numbers	%
Total number of extractives projects	69	
Data on corporate structure found	49	100
Tax haven entity within corporate structure	44	90
No tax haven within corporate structure	5	10
Holding company in tax haven	28	57
Subsidiary in tax haven	11	22

<sup>II</sup> [http://www.ifc.org/ifcext/about.nsf/content/About\\_IFC\\_Financing](http://www.ifc.org/ifcext/about.nsf/content/About_IFC_Financing) - date 5/7-2011

<sup>III</sup> IFC portfolio FY10 [http://www.ifc.org/ifcext/southasia.nsf/AttachmentsByTitle/FY10\\_investmentportfolio/\\$FILE/SA-FY10\\_Investment\\_Portfolio.xls](http://www.ifc.org/ifcext/southasia.nsf/AttachmentsByTitle/FY10_investmentportfolio/$FILE/SA-FY10_Investment_Portfolio.xls) - (6/7-2011)

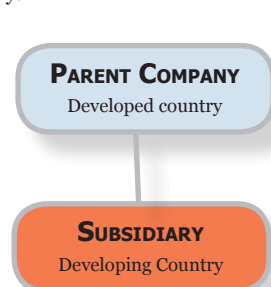
<sup>IV</sup> Email from IFC communications officer Josef Skoldeberg, June 18th 2011.

<sup>I</sup> IFC annual report 2010, p. 79.

In the following the findings on the corporate structures and tax haven linkages are explained through a number of concrete examples:

### A) DIRECT FINANCING STRUCTURE

The simplest type of company structure identified among IFC's extractive-industry clients is a parent company in North which directly owns its subsidiary in a developing country. This structure might involve a tax haven somewhere in the overall corporate structure but not in the direct relationship between the parent and the subsidiary.



#### Example 1: Kasbah Resources Limited

Kasbah Resources Limited is an Australian company that owns a tin deposit in Morocco. The parent company is incorporated in Australia. The two subsidiaries in Morocco - Kasbah Gold and Hamada Minerals - are both owned directly by the parent firm in Australia<sup>IV</sup>.

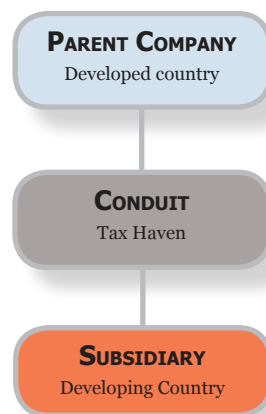
#### Example 2: Gold Ridge Mining Limited

The parent company, Australian Solomons Gold Limited, is incorporated in Australia. Its sub-

sidary Gold Ridge Mining Limited is fully and directly owned by Solomons Gold Limited in Australia.<sup>V</sup>

### B) INTERMEDIATE HOLDING COMPANY IN TAX HAVEN

This is the most common structure among IFC's extractive-industry clients representing 60 pct. of the analysed companies: The parent company owns its subsidiary in a developing country through an intermediate holding company in a tax haven - typically the Cayman Islands, the British Virgin Islands or Bermuda.



#### Example 1: Tsodilo Resources Limited

Tsodilo Resources Limited is a Canadian mining company that extracts diamonds, base and precious metals in Botswana. Its two subsidiaries in Botswana are owned through a holding company in Bermuda.<sup>VI</sup>

<sup>V</sup> Australian Solomon's Gold annual report 2009.

<sup>VI</sup> <http://www.tsodiloresources.com/s/GroupStruc->

#### Example 2: Anglo American Quellaveco

Anglo American, one of the biggest mining companies in the world, is the majority investor in a copper mine in Peru called Quellaveco. Anglo American has acquired the concession in the 90's and is now ready to start extracting.

The Quellaveco concession is owned through an 82 pct. stake in a Peruvian company called Minera Quellaveco SA. All Anglo American's investments in Quellaveco SA and contracts with the Peruvian state were undertaken by a holding company based in the British Virgin Islands.<sup>VII</sup>

### C) HOLDING COMPANY AND SUBSIDIARY IN TAX HAVEN

16 pct. of the companies in the IFC portfolio have chosen this model: The parent company, based in a developed country, owns its natural resource project in a developing country from a subsidiary placed in a tax haven. It means that the parent has no independent company listed in the country of operation. The tax haven subsidiary is typically owned by a holding company in a tax haven.

#### Example 1: Salamander Energy Example

Salamander Energy is an oil company with exploration and production in Indonesia, Thailand, Vietnam and Lao PDR. Its headquarter is placed in London. All of Salamander Energy's operations in Indonesia are incorporated in holding companies outside Indonesia - includ-

ture.asp (26/9-2011)

<sup>VII</sup> <http://www.proinversion.gob.pe/webdoc/convenios/> - 5/7-2011

ing five companies located in the tax haven British Virgin Islands.<sup>VIII</sup>

#### Example 2: Kuwait Energy Company

Kuwait Energy Company is an oil and gas exploration and production company. It is based in Kuwait and operates in the Middle East, North Africa and Asia. The company's activities in Egypt, Pakistan, Yemen, Ukraine and Latvia are owned from companies based in the British Virgin Islands. No subsidiaries are listed in the countries of operation<sup>IX</sup>.

<sup>VIII</sup> Salamander Annual report 2010, p. 77.

<sup>IX</sup> Kuwait Energy Company Annual report 2010, p. 74

<sup>IV</sup> Kasbah annual report 2010.



## 5. IFC extractive-clients' tax planning

In this chapter the aim is to understand how the corporate structures identified among IFC's extractive-industry clients can be used to minimize tax payments to the developing countries. It is especially important to clarify whether these companies can minimize tax payments in the developing country that are hosting a specific project. But since host and home country tax payments are interrelated the report will shed light on whether the companies at the same time minimize tax payments in their home countries as well.

Just to wrap up what was mentioned earlier: IFC's extractive-industry clients are mainly resident in UK, Australia, Canada or the United States. The projects IFC supports are most often located in a developing country in Africa, Latin America – and sometimes in Asia.

### TAX PLANNING AND FDI

A company with foreign investments might risk paying taxes twice – first in the host country, and afterwards one more time when the money is sent back to the home country. If the tax authorities in both countries took for instance one third of the earnings then the company would be left with very little profit after tax. That would

not encourage foreign investments which would be counterproductive for both the home and the host country. Therefore governments have formulated systems to promote foreign investments by avoiding taxing the firm twice as well as providing tax deductions for foreign investments. However, these systems can be used by companies to minimize tax payments both in the host and the home country.

#### A) Direct financing structure

Can the most simple company structure with a parent company that directly owns its developing country subsidiary be used for tax planning?

If the tax rate is relatively high in the host country, the company would prefer not to pay too much tax there. This can be done by injecting as much debt and as little equity as possible into the subsidiary.

The reason is that debt gives rise to interest, which is generally a deductible expense. When the parent injects debt into the subsidiary instead of equity, the parent receives interests in return instead of dividends – and interests are not taxed in the host country. The interests will instead be taxed as an income in the parent's home country. The method is applied if the tax rate in the home country is relatively low.<sup>I</sup>

If that's not the case, the company can avoid the tax payment on the interests in the home country by using a so-called "hy-

<sup>I</sup> Assessing the FDI response to tax reform and tax-planning w. Steven Clark p. 8-11. - <http://www.oecd.org/dataoecd/47/16/40315473.pdf> (26/9-2011)



brid instrument financing structure". This basically means that the interests that leave the developing country are considered equity in the home country's accounts. And this is generally gives a tax exemption or tax credit at home. The result indicate that the company minimizes tax deduction both in the host and the home country.<sup>II</sup>

#### B) Intermediate holding company in tax haven

As mentioned the most common structure is a parent company that owns its subsidiary in a

developing country through an intermediate holding company in a tax haven. How can this be used for tax planning purposes?

Among IFC's extractive-industry clients the favourite location of conduits are the 'classic' tax haven bounty islands like the Caymans, British Virgin Islands and Bermuda. These tax havens typically do not tax foreign corporations' entities at all.

What are the holding companies used for? First the parent company make an equity investment in the intermediate holding company in a tax haven. Afterwards the same capital is forwarded

<sup>II</sup> Ibid, p. 15.

to the subsidiary in the host country as a loan. The result is that the subsidiary in the host country pays interest to the tax haven conduit which is deductible and provides a host country tax savings. And the conduit receives the interest in a tax haven with typically no tax on interest income. It means that both the interest expense and the interest income are located where it gives the greatest tax advantage for the company. The interest payment, however, may be still become subject to a withholding tax.

When the money is moved from the tax haven to the parent firm as a dividend, it typically releases a tax exemption or tax credit in the home country. Alternatively the profit is stored in the tax haven for other investment purposes. In that situation the company has managed to minimize or avoid taxes twice - in the host as well as the home country.<sup>III</sup>

On top of that the tax haven intermediaries can be used to over-charge interests, royalties etc. paid by the subsidiary. This is another technique to move income from a high-tax country to a low-tax country that further erodes the tax base in the host country.<sup>IV</sup>

An example from an OECD Policy Brief on the tax effects of FDI shows that a company can re-

duce its average tax rate on a foreign direct investment from 30 pct. and ultimately down to 0,5 pct. through a tax planning strategy involving a tax haven conduit.<sup>V</sup>

### C) Holding company and subsidiary in tax haven

16 pct. of IFC's extractive-industry clients own their natural resource project in a developing country from a subsidiary placed in a tax haven. How can this be used for tax planning?

If there is no independent subsidiary registered in the host country, the operation is probably run through a branch of a foreign company located in a tax haven.

In that case it has no independent legal personality and the tax haven company is directly and fully responsible for all liabilities and undertakings of its branch office.

A subsidiary company, on the other hand, is a separate legal entity, independent from other companies in the group.

According to the previous examples it is often an advantage to register an independent subsidiary in the host country, because it makes it possible to deduct interest expenses and thereby reduce host country taxes. And it also reduces parent company liability. So why choose a branch and not a subsidiary?

A possible explanation might be a so-called "hybrid entity financing structure". The basic idea of such a structure is that a company has defined an operating entity in a host country to be a hybrid entity because the same entity is considered to be a subsidiary and a branch. In the host country the entity is a subsidiary while in the parent's home country it's considered a branch.<sup>VI</sup>

In that case the interest payment would still be deductible against the host country's tax base, because the local tax authorities recognizes it as separate legal entity. At the same time the payments by the subsidiary in the host country to a tax haven intermediate holding company would be disregarded because the parent and the subsidiary is treated as single corporate entity for tax purposes. It could also mean that the subsidiary's expenses become deductible against a parent's tax base which could be an advantage for the company as a whole.

## 6. The case of Yanacocha

Here is a more detailed example of a corporate structure, to give more detailed information on how companies can organise their investments. One of IFC's bigger mining investments is South America's largest gold mine called Yanacocha. This open pit mine is located at 4,000 meters altitude in the Andes in the Northern Peru.

The operating company Minera Yanacocha S.R.L. is owned by Colorado-based Newmont Mining Corporation with 51 pct. and Peruvian Buenaventura with 44 pct. IFC owns the last five per cent. Since Newmont bought into Yanacocha in 1993 it has produced more than 26 million ounces of gold.<sup>I</sup>

The majority owner of Yanacocha, Newmont, bought its share in Yanacocha through an intermediate holding company called Newmont Second Capital Corporation<sup>II</sup> located in the United States. But not just anywhere in the States. The conduit is located in Delaware<sup>III</sup>, which is con-

<sup>I</sup> <http://www.newmont.com/south-america> (24/9-2011), <http://www.yanacocha.com.pe/la-compania/quienes-somos/> (24/9-2011)

<sup>II</sup> <http://www.proinversion.gob.pe/webdoc/convenios/> (24/9-2011)

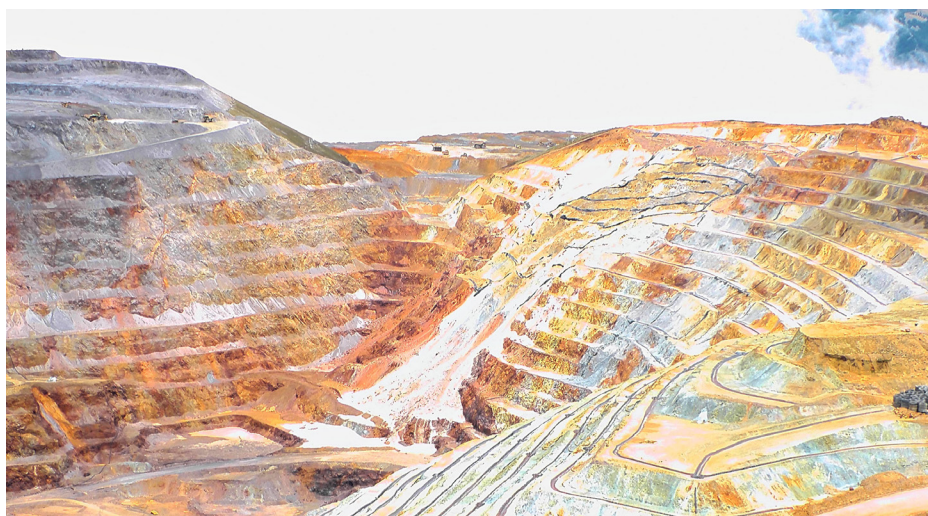
<sup>III</sup> <http://www.sec.gov/Archives/edgar/data/1164727/000095012311017350/d79003exv21.htm> (24/9-2011)

<sup>V</sup> OECD Policy Brief 2008: Tax Effects of Foreign Direct Investment, p. 4.

<sup>VI</sup> Assessing the FDI response to tax reform and tax planning w. Steven Clark p. 14-16.

<sup>IV</sup> Assessing the FDI response to tax reform and tax planning w. Steven Clark p. 12.





sidered to be a domestic tax haven.

Newmont has actually two Delaware-based conduits involved in Yanacocha. The other is called Newmont Peru Limited<sup>IV</sup>. It owns 40 pct. of a Peruvian subsidiary called Minera Chaupiloma Dos de Cajamarca S.R.L. This entity owns the mining rights for Yanacocha's mining areas for which it receives annual royalty payments from Minera Yanacocha S.R.L.<sup>V</sup>

In a recent MIT Press publication on multinational company finance and taxation the au-

<sup>IV</sup> <http://www.sec.gov/Archives/edgar/data/1164727/000095012311017350/d79003exv21.htm>

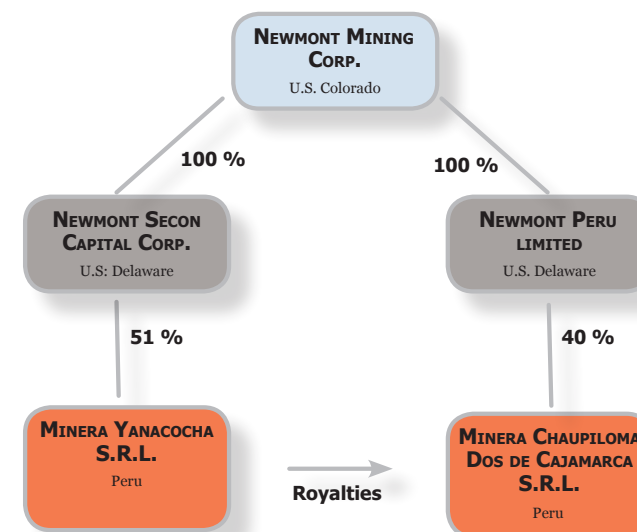
<sup>V</sup> Minería Yanacocha Annual reports from [www.smv.gov.pe](http://www.smv.gov.pe)

thors J. Mintz and A. Weichenreider explain the typical function of a conduit in Delaware:

"Conduit entities need not to be established in third countries. Tax advantage may also arise if a holding company structure is used within a country. For example, Delaware holding companies are popular in the United States, in part for regulatory reasons and also to minimize state-level taxes."<sup>VI</sup>

The Yanacocha mine is owned by Newmont through a structure similar to the most typical structure found in the IFC portfolio: The parent and the operating company are connected through an intermediate holding company in

<sup>VI</sup> 'The Indirect Side of Direct Investment - Multinational Company Finance and Taxation' - Mintz and Weichenreider (2010), page 37.



a low-tax area. The difference is that Delaware is a domestic low-tax area located in the same country as the parent firm.

According to Mintz and Weichenreider this type of corporate structure can give the same advantages as an intermediate holding company in a third-country:

"Some holding companies may be used within a country for tax planning reasons besides consolidation. A holding company could be located in low-tax state or province to reduce taxes paid at the sub-national level (such as Delaware in the United States and Quebec in Canada). Further, the use of hybrid entities that could accomplish double-dip interest deductions would need a holding company to be established in the same

country as the target."<sup>VII</sup>

Newmont Mining Corporation's annual report in 2010 provides information on the company's general tax payments. Newmont explains that the tax rates are significantly low in 2008 and 2010:

"The lower effective tax rate in 2010 and 2008 is primarily due to tax benefits recognized as a result of "check the box" elections made with respect to certain of the Company's non-US subsidiaries. As a result of the elections, the subsidiaries are treated as flow-through entities for U.S. federal income tax purposes."

<sup>VII</sup> 'The Indirect Side of Direct Investment - Multinational Company Finance and Taxation' - Mintz and Weichenreider (2010), page 64.

“Check the box,” means that a parent company in the United States can choose to have a foreign operating subsidiary treated as a branch of the intermediate holding company, according to a 2008-report by Steven Clark from the OECD Centre for Tax Policy and Administration.<sup>VIII</sup>

In the case of Newmont and Yanacocha it might mean that the Peruvian subsidiaries are treated as a branch of Newmont’s conduits in Delaware. The result is that Newmont’s subsidiaries in Peru become hybrid entities: In the US they are treated as branches of the Delaware conduit while in Peru they are treated as separate legal entities. As a result the interests and royalties that might be paid by the Peruvian subsidiaries to the conduit in Delaware are deductible in the corporate tax base in Peru. And the same payments are not subject to tax in the U.S. when received in Delaware - not until the profits are eventually distributed to the parent company.

The tax result of the “check the box” elections is significant, according to Newmont’s annual report from 2010: “The effective tax rates were 21%, 28% and 11% in 2010, 2009 and 2008, respectively. (...) Without the restructuring, the effective tax rate for 2010 and 2008 would have been 32% and 24%, respectively.”<sup>IX</sup>

<sup>VIII</sup> ASSESSING THE FDI RESPONSE TO TAX REFORM AND TAX-PLANNING (2008), Steven Clark, Head, Horizontal Programmes Unit, OECD Centre for Tax Policy and Administration (CTPA).

<sup>IX</sup> <http://www.sec.gov/Archives/edgar/data/1164727/000095012311017350/d79003e10vk.htm> (24/9-2011)

## 7. Government efforts against tax-planning

Most states in the world have taken steps to avoid their tax base from being eroded by tax planning. The types of tax planning that affects host countries receiving foreign direct investments, that are described in this report, is thin-capitalization and transfer-mispricing.

### THIN-CAPITALISATION RULES

Governments generally seek to control thin-capitalisation through thin-capitalisation rules which determine how much of the interest paid on corporate debt is deductible for tax purposes. This can be done by for instance deciding that a subsidiary to foreign companies’ interest deduction will be disallowed if the subsidiary’s “debt-to-equity ratio” exceeds 2:1. This means that the subsidiary can get deductions for debts that are twice the size of the equity in the subsidiary at the maximum - debts above that level gives no deductions.

These kinds of regulations are to be found in 65 of the countries hosting IFC-supported extractives investments. Yet 36 pct. of the countries have no thin-capitalisation rules. It has not been possible to find any reports that evaluate whether the existing thin-capitalisation rules are enforced.

### ARM’S-LENGTH PRICING

Many governments have adopted transfer pricing rules to ensure that transfer prices between entities in a group of related companies are established on a market value basis. It means that prices should be the same as they would have been, had the parties to the transaction not been related to each other. Such a price is an “arm’s-length price”.

75 pct. of the extractives host countries have adopted rules on arm’s length pricing. The aim is to avoid that profits are shifted offshore especially through transactions with tax haven subsidiaries that over-charge on interest, royalties and other payments.

	Numbers	%
Total number of countries	32	
Data on corporate structure available	28	100
Countries without thin capitalization rules	7	25
Countries without specific thin capitalization rules	3	11
Countries with a 1/2: 1 debt-to-equity ratio	8	29
Countries with a 3/1: 1 debt to equity ratio	10	36

	Numbers	%
Total number of countries	32	
Data on corporate structure available	28	100
Countries without transfer pricing rules	1	4
Countries without specific transfer pricing rules but the arm’s length principles applies	6	21
Countries with transfer pricing rules	14	50
Countries with transfer pricing rules and methodologies or documentation requirement	7	25

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## 8. Transparency on payments to governments

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In the annual report from 2010 IFC describes how it works for accountability in the extractives industry:

"We also promote accountability by requiring our extractive-industry clients to publicly disclose taxes and royalties they pay to governments — and by keeping track of the numbers ourselves. In 2009, IFC's oil, gas, and mining clients contributed about \$7 billion in government revenues and provided about 128,000 jobs"

IFC has published the links to the extractive-clients information on government contributions on their web-page: <http://www.ifc.org/ifcext/coc.nsf/content/Disclosure#&Tab=2>

IFC requirement on extractive-client's disclosure of government payments goes back to 2007. It means that data from 2007, 2008 and 2009 are accessible by now. Not all projects from these three years are listed.

And since it takes a number of years from an extractives project is started to the extraction phase begins and the majority of the companies mentioned on IFC's website are in an early stage, it is generally too early to evaluate the

government contribution. Furthermore, IFC has decided to link the company information on government payments instead of presenting it on their own website. The result is that the data are presented in various ways which make them difficult to compare. Moreover, a number of the links have now ceased to exist. It makes it even more difficult for the public to keep track of the government contributions over time.

IFC has explained to DanWatch why it is done this way:

"The reason we use links is because it is ultimately the responsibility of our clients to disclose their payments, not for us to disclose their payments for them. (...) We started the website where we link to our clients' disclosure because we thought it would be useful for different audiences not because we ourselves were required to. It has proved useful and we will continue doing it but as the years start to add up we are thinking about the best way to present the information."

IFC also explain that it has received data from all extractives-clients in order to make the aggregated figure that is published in the annual report:

"All our clients report their corporate tax information to us so we can give an aggregate figure for our whole portfolio but we do not give it broken down by individual companies."



## 9. IBIS' recommendations to IFC

The World Bank group and IFC in particular should act on its 2010 statement on tax evasion, and adopt high standards and clear guidelines for lending. To enhance the developmental effect of IFC's investments in extractive industries, the institution should ensure that its supported projects are not based in tax havens and secrecy jurisdictions.

Tax avoidance and evasion is a critical problem for developing countries. The corporate structure of companies should be investigated as part of IFC's screening procedure of new projects, and recipients of IFC funds should sign a legally binding agreement, which prevents the use of tax havens and secrecy jurisdictions.

The IFC should develop clear guidelines on thin capitalization, that is, on how much debt in proportion to equity that is allowed to be injected into a subsidiary. This should be done in order to avoid that thin capitalization is employed for tax avoidance purposes.

Companies supported by IFC should present their annual accounts on a country-by-country and project-by-project basis, which would enable host governments and civil society to identify tax avoidance and evasion. IFC should make this disaggregated data available on its homepage.

IFC should support developing countries in imposing rules on thin capitalization and arms-length pricing. Tax payments of companies should be integrated as a standard indicator to measure the development effect of IFC investments in the private sector.

The Danish government should in accordance with its new position paper on foreign policy take immediate action at the IFC to stop the tax evasion and avoidance of the extractive industries. This is closely tied to ending the use of tax havens, which enables companies to reduce their tax by 50-98%.

The Danish government should adopt the Financial Secrecy Index definition of tax havens to orient its work on illicit financial flows and the just taxation of natural resources.



ANNEX A			
COUNTRY	COMPANY NAME	Tax haven link	Source
P = parent in tax haven, H = holding company in tax haven, S = subsidiary (project owner) in tax haven, O = other company in the overall corporate structure in tax haven, N = No companies in tax havens			
Africa Region	Afren Plc	S/H	Afren Annual Report 2010_full, p 102
Africa Region	Tullow Oil Plc	S	Tullow annual report 2010 p. 122
Africa Region (Ethiopia)	Nyota Minerals Limited	O	<a href="http://www.nyotaminerals.com/corporate_structure.php?PHPSESSID=a2feffbcf022a8ca9d8a82fa41ca3e51">http://www.nyotaminerals.com/corporate_structure.php?PHPSESSID=a2feffbcf022a8ca9d8a82fa41ca3e51</a>
Albania	Bankers Petroleum Ltd.	H, S	<a href="http://www.bankerspeteroleum.com/index.php?page=structure">http://www.bankerspeteroleum.com/index.php?page=structure</a>
Argentina	Chevron Argentina	O	<a href="http://www.sec.gov/Archives/edgar/data/93410/000095012311017688/f56670exv21w1.htm">http://www.sec.gov/Archives/edgar/data/93410/000095012311017688/f56670exv21w1.htm</a>
Argentina	Chevron San Jorge SRL	O	Chevron Annual report 2010, p. 44 - <a href="http://www.chevron.com/annualreport/2010/documents/pdf/Chevron2010AnnualReport.pdf">http://www.chevron.com/annualreport/2010/documents/pdf/Chevron2010AnnualReport.pdf</a>
Argentina	Companias Asociadas Petroleras S.A. (C	?	
Argentina	Pan American Energy LLC	O	
Argentina	Roch S.A.	?	
Bolivia	Sinchi Wayra S.A.	P, H	<a href="http://www.glencore.com/zinc-copper-lead.php">http://www.glencore.com/zinc-copper-lead.php</a> , Glencore Annual report 2010 p 74.
Bolivia	Minproc Bolivia S.A.	O	Amec Annual Report 2009, p. 14 - * <a href="http://www.minproc.com/about-us/history">http://www.minproc.com/about-us/history</a>
Botswana	Tsodilo Resource Limited	H	<a href="http://www.tsodiloresources.com/s/GroupStructure.asp">http://www.tsodiloresources.com/s/GroupStructure.asp</a>
Brazil	Black Gold Drilling LLC	?	
Brazil	Eiffel Ridge Group C.V.	S, O	<a href="http://www.manta.com/coms2/dnbcompany_9kc75c">http://www.manta.com/coms2/dnbcompany_9kc75c</a>
Brazil	Queiroz Galvao Oleo e Gas S.A.	O	<a href="http://www.kvk.nl/handelsregister/zoekenframeset.asp?zk=0&amp;url=https://server.db.kvk.nl/TST-BIN/FU/TSWS001@?BUTT=342799380000">http://www.kvk.nl/handelsregister/zoekenframeset.asp?zk=0&amp;url=https://server.db.kvk.nl/TST-BIN/FU/TSWS001@?BUTT=342799380000</a>
Burkina Faso	Gryphon Minerals Inc	O	
Burkina Faso	Volta Resources	H	Screendump from website
Cameroon	Cameroon Oil Transportation Company	H, O	<a href="http://www.manta.com/coms2/dnbcompany_9wvq90">http://www.manta.com/coms2/dnbcompany_9wvq90</a>
Chad	Tchad Oil Transportation Company S.A. (	H, O	<a href="http://www.annualreportandform20f.shell.com/2010/servicepages/search.php?q=bermuda&amp;pageID=38181">http://www.annualreportandform20f.shell.com/2010/servicepages/search.php?q=bermuda&amp;pageID=38181</a> * <a href="http://www.afdevinfo.com/htmlreports/org/org_69267.html">http://www.afdevinfo.com/htmlreports/org/org_69267.html</a>
China	Far East Energy Corporation	H	<a href="http://www.ifc.org/ifcext/spiwebsite1.nsf/0/98717BFC75CE6528852576BA000E2A70">http://www.ifc.org/ifcext/spiwebsite1.nsf/0/98717BFC75CE6528852576BA000E2A70</a>
China	Sichuan Jiuda Salt Manufacturing Co., Ltd	?	
Colombia	Greystar Resources	?	No info found.
Congo, DRC	First Quantum Minerals Limited	H	<a href="http://www.first-quantum.com/l/pdf/ZDocs/Z-Restricted-1106-13-PreList.pdf">http://www.first-quantum.com/l/pdf/ZDocs/Z-Restricted-1106-13-PreList.pdf</a>
Cote D'Ivoire	Afren Cote d'Ivoire Ltd.	H/S	<a href="http://ar2010.afren.com/assets/downloads/pdf/2010_Afren.pdf">http://ar2010.afren.com/assets/downloads/pdf/2010_Afren.pdf</a> - page 102
Egypt	Gippsland Limited	?	
Egypt	IPR Transoil Corporation (Improved petro	?	
Egypt	Kuwait Energy Company KSCC	H, S	Kuwait Energy Company Annual report 2010, p. 74
Egypt	Meleiha Oil Development and Exploration	H, O	ENI Annual report 2010, p. 242,
Ghana	Kosmos Energy Finance	H	<a href="http://www.ifc.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/b1503fd9ab4d7012852576ba000e2dd9?opendocument">http://www.ifc.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/b1503fd9ab4d7012852576ba000e2dd9?opendocument</a>
Ghana	Newmont Ghana Gold Limited	O	<a href="http://www.sec.gov/Archives/edgar/data/1164727/000095012311017350/d79003exv21.htm">http://www.sec.gov/Archives/edgar/data/1164727/000095012311017350/d79003exv21.htm</a>
Global Projects	Baku-Tbilisi-Ceyhan Pipeline	?	* <a href="http://www.bp.com/genericarticle.do?categoryId=9006615&amp;contentId=7020655">http://www.bp.com/genericarticle.do?categoryId=9006615&amp;contentId=7020655</a>
Global Projects	Lydian International Ltd	H, P	<a href="http://www.lydianinternational.co.uk">http://www.lydianinternational.co.uk</a> - bottom of page. Date: 5/7-2011., Lydian annual report 2010, p. 46.
Global Projects	Melrose Resources plc.	O	Melrose Resources Annual Report 2010, p. 67
Guyana	Guyana Goldfields Inc	S, O	Guyana Goldfields Inc Annual Report 2010, p. 43
Haiti	Eurasian Minerals Inc	?	
India	Cairn Energy Hydrocarbons Limited	H, S	<a href="http://www.cairnindia.com/IR/SupportingDocs/CILGroupStructure2009Final1.pdf">http://www.cairnindia.com/IR/SupportingDocs/CILGroupStructure2009Final1.pdf</a>
India	Cairn India Limited	H, S	<a href="http://www.cairnindia.com/IR/SupportingDocs/CILGroupStructure2009Final1.pdf">http://www.cairnindia.com/IR/SupportingDocs/CILGroupStructure2009Final1.pdf</a>
India	Punj Lloyd Upstream Limited	H, O	Punj Lloyd Lmt Annual Report 2010-2011, p. 57
Indonesia	Salamander Energy plc.	H, S	Salamander Annual report 2010, p. 77.
Lao PDR	Salamander UJV	?	

Latin America Region	GeoPark Holdings Limited	P, H	Geopark Annual report 2010, p. 79. and p. 66.
Mexico	Grupo Calidra, S.A. de C.V.	?	
Mexico	Pan American Silver Corporation	N	Pan American Annual Report 2010, p. 65
Morocco	Kasbah Resources Limited	N	Kasbah annual report 2010.
Mozambique	Baobab Resources Plc	H	<a href="http://www.baobabresources.com/corporate/group-structure">http://www.baobabresources.com/corporate/group-structure</a>
Mozambique	Baobab Resources UJV	H	<a href="http://www.baobabresources.com/corporate/group-structure">http://www.baobabresources.com/corporate/group-structure</a>
Mozambique	Empresa Nacional de Hidrocarbonetos de Moçambique	O	<a href="http://sasol.investoreports.com/sasol_sf_2011/doing-business-with-sasol/international-energy-cluster/sasol-petroleum-international">http://sasol.investoreports.com/sasol_sf_2011/doing-business-with-sasol/international-energy-cluster/sasol-petroleum-international</a>
Oman	Mazoon Petrogas SAOC	O, H	MBpetroleumServiceFinancialReview 2011, 1Q, p. 22 , <a href="http://www.mbholdingco.com/aboutus_corporate_structure.shtml">http://www.mbholdingco.com/aboutus_corporate_structure.shtml</a>
Peru	Maple Energy Plc	P, H, O	Annual Report 2010, p. 104 & 138-139
Peru	Anglo American Quellaveco S.A.	H	<a href="http://www.proinversion.gob.pe/webdoc/convenios/">http://www.proinversion.gob.pe/webdoc/convenios/</a>
Peru	Antares Minerals Inc.	H, O	<a href="http://www.first-quantum.com/i/pdf/ZDocs/Z-Restricted-1106-13-PreList.pdf">http://www.first-quantum.com/i/pdf/ZDocs/Z-Restricted-1106-13-PreList.pdf</a> p. 5 <a href="http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=876217">http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=876217</a> , First Quantum Annual Report 2010, p. 60
Peru	BPZ Resources, Inc.	N	
Peru	Minera Yanacocha S.A.	O	2010 Annual Report, p. E8
Peru	Peru LNG S.R.L.	?	
Russian Federation	Chukotka Mining and Geological Company	S, O	Kinross Gold Corporation Annual Report 2010, p. 159 * Was bought by Kinross 2007 <a href="http://www.kinross.com/operations/operation-kupol-russia.aspx">http://www.kinross.com/operations/operation-kupol-russia.aspx</a>
Russian Federation	Kinross Gold Corporation	O	Kinross Gold Corporation Annual Report 2010, p. 159
Russian Federation	Petropavlovsk Plc	H	<a href="http://www.petropavlovsk.net/images/stories/Reports2011/2010_financial_statements.pdf">http://www.petropavlovsk.net/images/stories/Reports2011/2010_financial_statements.pdf</a> stk. 40
Russian Federation	Vostok Energy Ltd	?	
Solomon Islands	Gold Ridge Mining Limited	N	Australian Solomon's Gold annual report 2009.
South Africa	Hernic Ferrochrome Pty Limited	?	
South Africa	Petra Diamonds Limited	H	<a href="http://www.petradiamonds.com/a/structure.php">http://www.petradiamonds.com/a/structure.php</a>
South Africa	Western Platinum LTD	N	2010 Annual Report and Account/Lonmin Plc, p. 137 <a href="http://www.lonmin.com/assets/pdf/Annual%20Report%202010.pdf">http://www.lonmin.com/assets/pdf/Annual%20Report%202010.pdf</a>
Swaziland	Mbabane Concerte Centre (PTY) Limited	?	
Tanzania, United Republic of	Helio Resource Corp	?	
Tunisia	Société Minière de Bougrine (SMB)	?	
Tunisia	Topic SA	?	
Venezuela	Minera Loma de Niquel, C.A.	H, O	<a href="http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=322937">http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=322937</a> and <a href="http://www.angloamerican.com/investors/shareholder">http://www.angloamerican.com/investors/shareholder</a>
Zambia	Drilltech Engineering Limited	?	
Zimbabwe	Stone One Holdings Limited, Zimbabwe	?	



ANNEX B			
COUNTRY	Corporate income tax 2011	Transfer pricing rules (main source: <a href="http://www.deloitte.com/taxguides">http://www.deloitte.com/taxguides</a> - highlight series)	Thin-cap rules (main source: <a href="http://www.deloitte.com/taxguides">http://www.deloitte.com/taxguides</a> - highlight series)
Albania	10 %	Although Albania does not have specific transfer pricing rules, the arm's length principle applies.	Interest deductions are limited on loans from shareholders and associated parties if the debt-to-equity ratio exceeds 4:1
Argentina	35 %	Transactions between related resident affiliates must be at arm's length. Six transfer pricing methodologies are authorised. Argentina also imposes documentation requirements.	Thin capitalisation – An interest deduction will be disallowed if a company's debt-to-equity ratio exceeds 2:1 and the interest is paid to a controlling financial institution or other controlling creditor benefits from a reduced withholding tax rate.
Bolivia	25 %	There are no transfer pricing rules, but transactions between related parties must be on arms length terms.	Although Bolivia does not have specific thin capitalisation rules, interest paid to members or shareholders must not exceed Libor plus 3% for loans granted abroad or the domestic banking lending rate for domestic loans. In both cases, interest exceeding 30% of interest that would be paid to a third party is non-deductible for income tax purposes.
Botswana	25 %	No transfer pricing rules.	No thin capitalisation rules.
Brazil	34 %	Brazil's transfer pricing rules only apply to cross-border transactions between related parties and transactions with entities located in tax haven jurisdictions. They do not adopt the arm's length principle, but rather use fixed margins to calculate the transfer price. Additionally, transfer pricing rules require a cross-border loan agreement to be registered with the central bank for interest to be fully tax deductible.	Brazil's first thin capitalisation rules entered into effect in 2010. Under the rules, interest paid to related parties outside a tax haven or preferential tax regime may be deducted if a number of requirements are met including that the related party debt-to-equity ratio does not exceed 2:1. Interest paid to an entities in a tax haven or with a preferential tax regime may be deducted only if a number of stricter requirements are met.
Cameroon	35% - 2010	There are no specific regulations on transfer pricing. However, the tax authorities may make adjustments to taxable income where related party transactions are not conducted on arm's length terms.	No thin capitalisation rules.
Chad	40 %	The commissioner of Internal Revenue Service has authority to adjust income in transactions between related persons to reflect the chargeable income and/or tax payable that would have arisen had the transaction been conducted at arm's length.	A nonresident person is deemed to be thinly capitalised if the ration of interest-bearing debt (from its shareholders) to equity exceeds 2:1.
China	25 %	Transfer pricing – China maintains transfer pricing rules and has been aggressively applying them.	Excessive interest expense from related party financing is non-deductible for tax purposes. In general, if an entity's debt-to-equity ratio exceeds a prescribed rate of 2:1, the excess portion of interest expense will be nondeductible.
Colombia	33 %	The transfer pricing regime is based on the OECD transfer pricing guidelines, with the arm's length principle applying in setting base prices and profit margins on transactions with foreign related parties.	No thin capitalisation rules.
Congo, DR	30 %	Although the DRC does not have a transfer pricing law, transactions between related parties must be at arm's length.	The holder of a mining license must observe a ratio of less than 75/25 between borrowed funds and equity.
Cote D'Ivoire	25 % (discount for extractives)	Profit transfers included payments between resident corporations and non-resident affiliates may be adjusted so that arm's length conditions apply for tax purposes.	Interest expense may be disallowed where it arises on shareholders loans in excess of fixed capital.

Egypt	40,3 % for oil/gas, 20 % for others	Taxpayers are required to comply with the arm's length standard in related party transactions. There are 3 methods.	A 4:1 debt-to equity ratio applies. Any interest exceeding this ratio is nondeductible.
Ghana	25 %	Transfer Pricing - The commissioner of Internal Revenue Service has authority to adjust income in transactions between related persons to reflect the chargeable income and/or tax payable that would have arisen had the transaction been conducted at arm's length.	A nonresident person is deemed to be thinly capitalised if the ratio of interest-bearing debt (from its shareholders) to equity exceeds 2:1.
Guyana	40 %	The tax authorities may treat a nonresident as an agent of a resident taxpayer and assess the nonresident (in the name of the resident) if a close relationship between the 2 allows business transactions to be arranged such that the resident's income is understated.	No thin capitalization rules
Haiti	30 %	No data found	No data found
India	33 %	The transfer pricing regime is influenced by OECD norms, although the penalty provisions in India are stringent in comparison with other countries. If a transfer pricing adjustment is made on a taxpayer that benefits from a tax holiday, the benefit will be denied to the extent of the adjustment.	No thin capitalization rules
Indonesia	25 %	Related party transactions or dealings with affiliated companies (including profit-sharing by multinational companies) must be carried out in a "commercially justifiable way" and on an arm's length basis. Documentation is required.	Indonesia does not have specific rules on thin capitalisation, but the general law authorises the Ministry of Finance to determine the debt-to-equity ratio of companies for tax calculation purposes.
Lao PDR	20 %* foreign companies	No data found	No data found
Mexico	30 %	Rules similar to the OECD Guidelines apply.	Thin capitalisation rules apply with a 3:1 debt-to-equity safe harbour ratio for loans granted from abroad by related parties.
Morocco	30 %	There is no formal transfer pricing legislation in Morocco, but transactions between related parties should be at arm's length. Two methodologies are used by the tax authorities.	No thin capitalization rules, but the deduction of interest on shareholders loans is limited to the rate provided by the Bank Al Maghreb (central bank of Morocco).
Mozambique	32 %	The arm's length principle applies to deals between related parties. For payments to companies in low tax jurisdictions, the authorities will need to be satisfied that the payment was genuine and reasonable.	The deduction of intercompany interest may be limited where the indebtedness to a nonresident related party is more than twice the equity.
Oman	12 %	Pricing between related entities should be on an arm's length basis.	No thin capitalization rules.
Peru	30 %	Transactions between related parties or between a Peruvian person and an entity in a tax haven jurisdiction must be carried out at arm's length prices. If the price agreed upon is not arm's length, the tax authorities may adjust the price. Jurisdictions that are deemed to be tax havens are set out in a list issued by the tax authorities. Transfer pricing documentation is required.	Interest paid by resident taxpayers to economically related or associated enterprises may not be deducted if a debt-to-equity ratio of 3:1 is exceeded. However, the interest is not recharacterised as a dividend.
Russian Federation	20 %	The market price may be imposed on "controlled transactions" when the actual price fluctuates more than 20% from the market price. The concept of "market price" is similar to the methodology under the OECD transfer pricing guidelines.	The thin capitalisation rules restrict the deductibility of interest on loans to related legal entities and apply where the lender live up to three criteria. The maximum debt-to-equity ratio is 3:1 for related legal entities in general.
Solomon Islands	35 %	No information found	No information found

South Africa	33 %	A South African taxpayer must follow arm's length principles in transactions with connected persons outside South Africa. The tax authorities may adjust prices to the arm's length prices that would have been charged between independent parties dealing at arm's length.	As a general guideline, the tax authorities should not apply the thin capitalisation provisions if the debt-to-equity ratio does not exceed 3:1.
Swaziland	30 %	No information found	No information found
Tanzania, United	30 %	The arm's length principle applies to transactions between affiliates, both resident and nonresident. Transfer pricing guidelines are being drafted.	The interest deduction is limited to the interest portion in respect of debt that does not exceed the 70:30 debt-to-equity ratio. Non-deductible amounts may be carried forward.
Tunisia	30 %	If it is determined that a transaction between parties does not correspond to a market price, the decrease in the benefits will be added back to the results of the enterprise.	No thin capitalization rules.
Venezuela	34 % *can be added local taxes between 05 - 10 %	Venezuela's transfer pricing rules generally follow OECD guidelines, requiring income and expenses related to transactions between related parties to be on arm's length terms. The transfer pricing rules define related parties and set forth permitted methodologies. Taxpayers are required to verify the existence of arm's length pricing by conducting a transfer pricing study.	The thin capitalisation rules provide for a debt-to-equity ratio of 1:1.
Zambia	30 %	Zambian transfer pricing rules require that transactions between associated persons be on arm's length terms. The tax authorities can replace actual conditions with arm's length conditions for commercial or financial transactions between associated persons.	Interest in excess of that arising from a debt-to-equity ratio of 3:1 is disallowed for mining companies.
Zimbabwe	25 %	While no specific legislation is in place, where the authorities deem that a transaction was not conducted at arm's length, a "fair" price may be substituted.	Expenditure incurred by a local branch or subsidiary of a foreign company or by a local company or its subsidiary in servicing debt contracted in connection with the production of income is disallowed to the extent such debt causes the person to exceed a debt-to-equity ratio of 3:1.