

## Beneficial Ownership

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### **Abstract**

Beneficial ownership is a concept useful, if somewhat elusive, in international and European tax law, since it helps preventing some undesirable tax consequences of some taxpayers' behaviors. Its origins and broad application can be found in the common law, from where it has been imported into the continental law systems, mostly by international agreements on avoidance of double taxation of income and capital; the other means, coming later, is EU acquis.

In the field of taxation, the main purpose of the beneficial ownership concept is to prevent tax avoidance. In the international tax law, as well as in the European tax law, it could be beneficial to some subjects to acquire the status of the resident of the contracting state or the EU member state, since the residents enjoy some tax privileges when doing business in the other contracting state or EU member state. The way to enjoy those privileges is by inserting a legal owner in the other contracting state or member state, which serves only as a conduit, through which the real owner ('beneficial owner') obtains the said privileges (some form of tax relief, usually lower tax rates).

Tax administration counter these practices by searching for the beneficial owner that is not tax resident in any of the contracting states or EU member states. If such was found, he would not be able to enjoy tax privileges, and would be subjected to full tax liability.