

Global Tax Alert

News from EU Tax Services

European Parliament publishes paper on the EU Third-Country Tax-Governance Issues

Executive summary

On 13 October 2015, European Parliament's Policy Department A at the request of the TAXE Special Committee of Parliament released its study, *Selected International Third-Country Tax-Governance Issues* (the Study).¹ In line with the European Union (EU) Commission Platform for Tax Good Governance,² the Study examines some of the pressures that European countries will face over the coming decade as they move towards a more transparent tax environment and continue to push for better tax compliance and the impact on promoting good governance in third countries. The first part of this paper provides a brief overview of some of the megatrends that will affect tax systems and then looks at some of the trends in tax levels and structures. This is followed by an examination of some of the challenges that EU tax policy makers face and how EU governments are responding to these challenges.

Detailed discussion

The Study must be seen against the background of the new Action Plan³ for a fairer corporate taxation system in the EU, published by the European Commission on 17 June 2015 in the context of the proposed Tax Transparency Package. As part of the Action Plan, the Commission has published an EU-wide list of what it deems to be 30 third country non-cooperative tax jurisdictions, compiled from Member States' independent national blacklists. Those jurisdictions included on the EU-wide list were identified by at least 10 Member States. The Commission believes that the listing, published on their website, will provide Member States with a transparent tool to compare their national lists and adjust their respective approaches to non-cooperative tax jurisdictions as necessary.

Further work in screening third countries for compliance with tax good governance standards will be performed on the basis of this list, with the Commission setting out that the Code of Conduct for Business Taxation Group would be the most appropriate

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forum to carry out such work. Screening would start with the countries that appear most frequently on Member States' lists of non-cooperative jurisdictions, with a view to assist them in improving their good governance standards. The Action Plan states that this work should be completed within 24 months. As a second stage, the Commission would coordinate countermeasures against non-cooperative jurisdictions. Information on what form these countermeasures may take was not included in the Action Plan. Recently, the Commission has carried out a technical update of the consolidated version of Member States' lists of third countries for tax purposes.

The Study highlights that the international community continues to make progress towards greater cooperation to ensure the effective exchange of information on tax matters. The Global Forum on Transparency and Exchange of Information for Tax Purposes has issued a series of reports highlighting the actions being taken by jurisdictions to implement the international standard for exchange of information on request. These reports assess a jurisdiction's legal and regular frameworks for transparency and exchange of information. In this respect, the European Parliament signaled the effort to push third countries to adopt these standards using mainly its Free Trade Agreements and its assistance programs.

With respect to the EU Third-Countries relationships to address good tax governance, the study indicates that first the EU needs to send out the example in order to encourage other countries to follow its standards. Second, there needs to be a commitment to review the criteria and, in particular, whether the ring fencing criteria needs to be extended to cover regimes such as the intellectual property (IP) box. Thirdly, a more robust monitoring system needs to be put in place, which could parallel the peer review process created by the Global Forum on Tax Transparency and Exchange of Information. Here the EU code of conduct group could play a key role, especially if it is given the political mandate.

The Commission also set recommendations to encourage third countries to apply minimum standards of good governance in tax matters.⁴ In general, the Commission spells out minimum standards of good governance in tax matters, both in regard to transparency and exchange of information and in regard to harmful tax measures, and a number of measures to be taken vis-à-vis third countries, with a view to encouraging those countries to comply with such standards.

Finally, the Study also indicates that countering aggressive tax competition will require strong leadership and a willingness on the part of countries to put the common good above maintaining a narrowly defined concept of fiscal sovereignty. Governments will only be successful in countering base erosion and profit shifting if they address both aggressive tax planning and aggressive tax competition.

Implications

The study will be used as guideline for the European Parliament to address policies and EU legislations in light of the impact of megatrends on government expenditures and tax systems. It points out the cohesion of the EU Institutions in tackling the lack of transparency, the harmful tax practices and the corporate tax base erosion that jeopardize Member States' revenue and their fair tax collection. In this respect, one must note the recent events concerning tax transparency and good governance, mostly after the political agreement⁵ on the automatic exchange of information on tax rulings that could be seen as marking what the Commission refers to as the start of a new era of transparency.

Endnotes

1. [http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/563449/IPOL_IDA\(2015\)563449_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/563449/IPOL_IDA(2015)563449_EN.pdf).
2. http://ec.europa.eu/taxation_customs/taxation/gen_info/good_governance_matters/platform/index_en.htm.
3. See EY Global Tax Alert, *European Commission publishes new Action Plan for a fairer corporate taxation system in the EU*, dated 17 June 2015.
4. http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/c_2012_8805_en.pdf.
5. See EY Global Tax Alert, *EU Council reaches political agreement on the automatic exchange of information on tax rulings*, dated 6 October 2015.

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