OECD publishes report on Co-operative Compliance


The report, issued at the conclusion of the 8th Annual FTA meeting held in Moscow, is designed to explore past and current experiences in relation to the concept of enhanced relationships between taxpayers and taxing authorities and sets out how such a concept may be developed and improved in the future. The enhanced relationship model can be defined as a relationship between revenue body and taxpayer based upon mutual transparency, cooperation and collaboration. As such, they can be characterized as a form of voluntary disclosure: the taxpayer promises actively to notify the tax authorities of any issues with a possible or significant tax risk and to disclose all facts and circumstances regarding the issues without hesitation or reservation. In return for full disclosure, the tax authority endeavors to provide timely advice on significant positions, taking into account real commercial deadlines when doing so. That approach to service provides the taxpayer with increased timeliness and certainty.

A significant part of the OECD report is dedicated to providing support to revenue bodies in demonstrating the value of the approach. It should be noted that the report was issued in “preliminary” form, indicating that future amendments are likely. Before looking at the development of the enhanced relationship concept, the report states that “National revenue bodies face a varied environment within which to administer their taxation system. Jurisdictions differ in respect of their policy and legislative environment and their administrative practices and culture. As such, a standard approach to tax administration may be neither practical nor desirable in a particular instance.” The report advises readers to bear this fact in mind when reading the document.
The preface to the report also points out the strong linkage between the enhanced relationship—which, according to the report, will now be known as “co-operative compliance”—and the OECD Base Erosion and Profit Shifting (BEPS) project, which calls upon tax administrators to undertake a number of steps to improve overall levels of tax compliance. As well as improving compliance levels, the preface sets out the belief that co-operative compliance can “...restore trust and confidence in the relationship between business and tax administrations.”

An overview of the report

The executive summary to the report sets out how, in 2008, the OECD’s FTA published the “Study into the Role of Tax Intermediaries” which analyzed the tripartite relationship between revenue authorities, large taxpayers and their tax advisors. The 2008 report concluded that taxpayers and revenue bodies should be encouraged to engage in a relationship based on co-operation and trust, with a core objective of reducing inappropriate aggressive tax planning or abusive tax avoidance transactions. The study described a conceptual framework for an enhanced relationship and recommended that revenue authorities should be encouraged to establish a working environment, processes and protocols within which a working relationship based upon mutual trust, transparency and cooperation can be achieved with large corporate taxpayers and tax advisors.

The report concludes that the value of a co-operative compliance relationship has now been established, and is further validated by how many countries have adopted such an approach since its inception in 2008. The report does note, however, that a number of lessons have been learned in the past five years, all of which are set out in the new co-operative compliance framework which is discussed throughout the report.

The report sets out how the new framework for co-operative compliance will now incorporate a more systematic approach to tax risk, based upon the important concept of a Tax Control Framework that is followed by each business taxpayer. The OECD believes that the presence of such a tax control framework will allow more objective and justified criteria to be applied as part of the relationship between taxpayer and tax authority.

Finally, the report discusses the basic building blocks in its development, setting out how a project team sponsored by the Netherlands Tax and Customs Administration worked closely with the OECD Centre for Tax Policy and Tax Administration and members of the FTA Large Business Network, along with input from BIAC and representatives of the tax intermediary community. A detailed Tax Alert which discusses the content of the seven chapters of the report is being prepared.

Endnotes:

3. Commercial awareness, impartiality, proportionality, openness through disclosure and transparency and responsiveness.
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