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Fighting Tax Evasion and Avoidance: A year of progress

Why has the Commission made fighting tax fraud and evasion a priority?

Every year, billions of euros of public money are lost in the EU due to tax evasion and tax avoidance. As a result, Member States suffer a serious loss of revenue, as well as a dent to the efficiency their tax systems. Businesses find themselves at a competitive disadvantage compared to their counterparts that engage in aggressive tax planning and tax avoidance schemes. And honest citizens carry a heavier burden, in terms of tax hikes and spending cuts, to compensate for the unpaid taxes of evaders. Fighting tax evasion is therefore essential for fairer and more efficient taxation.

The cross-border nature of tax evasion and avoidance, along with Member States' concerns to maintain competitiveness, make it very difficult for purely national measures to have the full desired effect. Tax evasion is a multi-facetted problem requiring a multi-pronged approach, at national, EU and international level.

EU Member States need to cooperate closely if they are to increase the fairness of their tax systems, secure much needed tax revenues and help to improve the proper functioning of the Single Market. In addition, the "strength in numbers" of the EU acting as a united block helps give more weight in achieving faster and more ambitious progress at international level in the area of tax good governance.

What progress has been made in fighting tax evasion and avoidance at EU level over the past year?

In December 2012, the Commission presented an Action Plan to better tackle tax evasion and corporate tax avoidance (IP/12/1325). This Action Plan kick-started what has become a highly intensive EU campaign to better fight these problems. It was endorsed at the European Council in May, where EU leaders called for effective steps to be taken to combat tax evasion and avoidance.

In the 12 months since the Action Plan was presented, there has been remarkable progress in this area at EU level, and a number of important new initiatives have been put forward by the Commission. Among the actions taken in 2013 were:

1. Expanding the automatic exchange of information widely within the EU

In June, the Commission proposed extending the automatic exchange of information between EU tax administrations, to cover all forms of financial income and account balances (IP/13/530). This paves the way for the EU to have the most comprehensive system of automatic information exchange in the world. It will also ensure that the EU will well-placed to implement the new global standard (see below) quickly and with minimum disruption to businesses. The proposal could be agreed by Member States in the first half of 2014.

2. Tightening EU corporate tax rules against aggressive tax planning

In November, the Commission proposed measures to close loopholes in the Parent-Subsidiary Directive and address national mismatches. This will shut off opportunities for a particular type of corporate tax avoidance (IP/13/1149). The proposal should be discussed and possibly agreed by EU Finance Ministers under the Greek Presidency.

3. Negotiating with neighbouring countries for greater transparency

The Commission was given a mandate to negotiate stronger tax agreements with Switzerland, Andorra, Monaco, San Marino and Liechtenstein (MEMO/12/353) in May. Commissioner Šemeta immediately visited all 5 countries, to give political drive to the talks and underline that the EU was looking for swift and ambitious negotiations. Formal negotiations have begun with the 4 smaller countries and will start with Switzerland as soon as it has its own negotiating mandate (expected before the end of the year).

4. Establishing a Platform on Tax Good Governance

The Commission established a Platform on Tax Good Governance to discuss the best ways to fight tax evasion and avoidance and monitor progress in this area at both EU and national level (IP/13/351). The Platform has already started work on how best to implement the Commission's Recommendations on Aggressive Tax Planning and on how to deal with tax havens. Its work programme also includes several other areas of focus, including an EU Taxpayer's Code, ways to increase transparency of multinationals and looking at the effects of EU tax policy on developing countries.

5. Launching the debate on Digital Taxation

The Commission established a High Level Expert Group on Taxation of the Digital Economy, chaired by former Portuguese Finance Minister Vitor Gaspar. It will meet for the first time on 12 December (IP/13/983). Corporate tax avoidance is an especially pressing problem in the digital sector. The group will look at the particular challenges in digital taxation and propose solutions in the first half of 2014 to ensure that the digital sector pays its fair share of taxes, while not creating tax obstacles to this pro-growth sector.

6. Agreeing new instruments to better fight VAT fraud

In June, Member States unanimously agreed on a set of measures to better combat VAT fraud. The Quick Reaction Mechanism and reverse charge mechanism will allow Member States to react more quickly and efficiently to large-scale VAT fraud, thereby reducing substantial losses for public finances. These new instruments will be ready for use from 2014 (IP/12/868).

7. Proposing new standard VAT form to improve tax compliance

In October, the Commission proposed a simplified, standard VAT form for use by businesses throughout Europe. In addition to easing life for businesses, this standard form will help to improve tax compliance by simplifying the procedure for businesses to declare the VAT they owe (IP/13/988). And greater compliance means greater revenues for national budgets.

8. Publishing a new report on VAT Gap in EU

The Commission published a study on the VAT Gap in the EU, which amounted to €193 billion in 2011. Prior to this study, the most recent estimates for the VAT Gap dated back to 2006. The new figures help to better understand the recent trends in the EU, to better shape and target policy measures to improve VAT compliance (MEMO/13/800).

9. **Preventing harmful tax competition**

The Commission has continued to scrutinise and control state aid granted through tax measures to companies. It has also supported the work of the Code of Conduct Group against harmful tax competition, contributing detailed analyses of many national tax regimes for consideration by the Code Group.

10. **Introducing more corporate transparency**

The new Accounting Directive introduces an obligation for large extractive and logging companies to report country-by-country the payments they make to governments, and also on a project-basis. Taxes levied are among the payments to be reported. The revised Capital Requirements Directives (CRDIV) improves transparency in the activities of banks and investment funds in different countries, particularly regarding profits, taxes and subsidies in different jurisdictions (MEMO/13/690). It is hoped that the implementation of the May European Council Conclusions will ensure that all large companies and groups make public how much they pay in tax and in which country, as banks now need to do. Finally, the Commission's proposal to revise the anti-money laundering legislation includes a specific reference to tax crimes (IP/13/87).

The active work at EU-level was also mirrored in the active role that the EU played in pushing forward international discussions to improve tax good governance worldwide (see below).

Where is there room for greater action at this stage in the fight against tax evasion and avoidance in the EU?

First and foremost, agreement is needed on the **Savings Tax Directive** (MEMO/12/353) before the end of 2013, as called for by the European Council in May. This is crucial to close loopholes in the Savings Directive, and ensure that it can continue to work well. An EU-wide framework for automatic information exchange will also give banks more legal certainty and clarity about reporting obligations.

Progress on the **Common Consolidated Corporate Tax Base (CCCTB)** is also very important to better tackle corporate tax avoidance (IP/11/319). In addition to substantially reducing administrative burdens for businesses, the CCCTB has the potential to eliminate many opportunities for profiting by multinational companies. This is recognised in the OECD's action plan against Base Erosion and Profit Shifting (BEPS), and agreement on the CCCTB would ensure that the EU is the standard setter in this area.

As stated in last year's Action Plan, the Commission would encourage Member States to make **better use of the Code of Conduct on Business Taxation**. This can be a highly effective tool for identifying and eliminating harmful tax regimes within the EU. The Commission is currently considering ways of strengthening the Code, for example by extending its scope or amending the Code criteria.

In addition, Member States have been called upon to **intensify efforts at national level** to tackle tax evasion and avoidance. Country specific recommendations were given to 13 Member States to improve tax compliance at national level. And the 2013 Annual Growth Survey again called on all governments to step up their national campaigns against tax evasion, and strengthen their coordinated action to tackle aggressive tax planning and tax havens.

Meanwhile, the Commission is **continuing work on the medium and long-term actions** set out in the Action Plan against tax evasion last year. These include a Taxpayers' Code, an EU Tax Identification Number and possibly common sanctions across the EU for tax offences.

What has been achieved <u>at international level</u> to improve the fight against evasion and avoidance, and what has been the EU's contribution to this?

In September 2013, G20 leaders agreed on concrete measures to better tackle tax evasion and corporate tax avoidance worldwide. First, they confirmed a move to greater international tax transparency, by agreeing that automatic exchange of information should be the new global standard of cooperation between tax administrations. Second, they endorsed the OECD's BEPS action plan to curb corporate tax avoidance worldwide. These measures confirm a major improvement in international taxation – one that will make it fairer, more effective and better equipped for the 21st century economy. With the political commitment made, the focus is now on implementing these changes.

With regard to the **automatic exchange of information**, the EU has drawn on its own experience and expertise in this area to actively contribute to the development of the new global standard. In particular, the Commission has tried to ensure that the global standard takes into account the existing EU automatic information exchange arrangements and is compatible with EU law (e.g. data protection), so as to avoid any unnecessary difficulties for businesses. The latest draft of the global standard appears to meet at least most EU needs, and the OECD intends to present the final version to the G20 Finance Ministers in February for agreement.

Meanwhile, the **BEPS Action Plan** complements the EU measures to tackle aggressive tax planning, while also addressing issues that can only be effectively dealt with at international level. The BEPS action plan sets out 15 specific actions to re-adjust international standards in taxation so that they are better shaped for the changing global economy. Over the next year, new rules and standards will be developed in areas such as permanent establishment, transfer pricing and digital taxation. The aim is to protect the fairness and integrity of tax systems, and better equip governments in their clamp down on corporate tax avoidance. The EU has already valuable experience in various areas covered by BEPS such as transfer pricing and tackling hybrid mismatches. And the work of the Commission's expert group on digital taxation will provide input for the OECD digital taskforce. With this input and experience to offer, the EU can continue to play a central role in the work to implement BEPS, particularly if a strong, coordinated position is maintained amongst all Member States.

Annex

The EU's toolbox to fight against tax fraud and tax evasion

	Action/Tool	What the Commission did	Next Steps
National level	- Reduce shadow economy - Combat tax evasion and fraud - Improve tax administration	In the context of the European Semester the Commission addresses Country Specific Recommendations on tax governance to the Member States	Member states to implement the CSRs addressed to them
EU level	EU Savings Taxation Directive	Commission proposed to close the loopholes in 2008	Council to adopt Directive
	Action plan to further strengthen the fight against evasion and avoidance	Adopted by Commission in December 2012	To be implement at national EU and global level
	Recommendations on agressive tax planning and Good governance in taxation	Commission set up the good governance platform in June 2013 to monitor implementation	Good governance platform to further monitor implementation in 2014
	Framework on anti-money laundering and fund transfers	Commission proposed update in February 2013	Council and EP to adopt proposal
	EU accounting rules, introducing a system of country-by-country reporting		Adopted – Member States to implement
	Administrative Cooperation Directive in the field of direct taxation	Proposed to extend the automatic exchange of information to 5 additionnal categories on top of the 5 categories for which there is an agreement to exchange information from 2015	Council to adopt the proposal – Member states to implement the already adopted provisions
	EU savings agreement with Switzerland, Andorra, Monaco, Liechtenstein and San Marino	Commission asked the Council for a negotiation mandate in 2011. Granted by ECOFIN in May 2013	Commission started negotiating with third countries
	Directive on mutual assistance for the recovery of taxes		In force since 2010
	Regulation on administrative cooperation in the field of VAT		In force since 2012
	VAT Reverse Charge Directive	Commission proposal in 2009, partially adopted in 2010	In force since 2013
	Quick Reaction Mechanism to fight VAT fraud	Commission proposal in July 2012	In force since 2013

	Action/Tool	Next Steps
Global action	Automatic information exchange as international standard	- EU to coordinate its position in OECD / G20 - EU to work on interconnectivity of the EU's IT information exchange systems and the US FATCA system and the global standard being developed by OECD
	Assistance to developing countries	- EU to continue to assist developing countries to build up robust tax administrations
	Tackling tax havens and agressive tax planning	- Implementation of the BEPS (base erosion and profit shifting action plan)