Euro Tax Flash

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Euro Tax Flash from KPMG's EU Tax Centre

Fight against aggressive tax planning: a call for concrete action

European Commission - Tax transparency - Aggressive tax planning - Harmful tax competition

On November 28, 2014, the Finance Ministers of France, Germany and Italy sent a letter to European Economic and Tax Commissioner Pierre Moscovici in which they called for common binding rules on corporate taxation in order to curb tax competition and fight aggressive tax planning urging the adoption of a comprehensive anti-BEPS Directive by the Member States before the end of 2015.

Background

The Finance Ministers made their request in the wake of the latest G20 meeting in Australia, during which the G20 called for finalizing all BEPS action items in 2015, and the recent publicity surrounding leaked tax rulings.

Tax transparency

In their letter, the Ministers underlined the current lack of transparency between tax administrations which facilitates aggressive tax planning.

They argued that action by the Commission on the automatic exchange of information on cross-border tax rulings, which should also cover transfer pricing, while necessary, is not enough. In this context, they also called for stricter conditions and rules for the issuance of such rulings.

To ensure tax transparency, they recommend not only the creation of a register for beneficial owners of trusts, shell companies and other non-transparent entities, but also to include in the Directive requirements for companies' intra-European cross-border restructuring and other operations.

Effective taxation

In order to combat tax avoidance, the Finance Ministers called for a general principle of effective taxation in the anti-BEPS Directive. This could mean not applying the exemptions in the Interest and Royalties and Parent Subsidiary Directive if they do not lead to effective taxation.

They also encouraged the prevention of double non-taxation arising from hybrid arrangements in cross-border situations, by adopting a common general anti-abuse provision. This builds on the recommendation made by the European Commission in its Action Plan to fight tax evasion and aggressive tax planning. See EuroTaxFlash 209.

They also called for a binding framework and common rules based on OECD and the Code of Conduct Group principles to deal with national provisions like Patent Boxes.

Combating tax havens

Finally, the Finance Ministers proposed dealing with tax havens through counter-measures towards those jurisdictions whose behaviour fosters non-transparency and aggressive tax planning, by building on the work performed by the Global Forum on Transparency and Exchange of Information.

Response to the request identifying next steps

In his letter in response to the Finance Ministers, Pierre Moscovici announced his intention to propose that the Commission issue comprehensive plans on tax avoidance in 2015. He also emphasized the importance of ensuring that any legislative proposals are in line with the OECD's on-going project to tackle tax avoidance internationally.

Finally, he underlined the necessity, in the meantime, to fast-track the existing proposals, which can have a genuine impact in reducing tax avoidance and ensuring fairer tax competition within the EU, such as the project on the Common Consolidated Corporate Tax Base (CCCTB).

EU Tax Centre Comment

This appears to be an attempt to kick-start a more concrete approach to the BEPS issue and possibly a more harmonized approach to corporate taxation in the EU. The key question is whether it will get the necessary support from other Member States.

Should you require further assistance in this matter, please contact the EU Tax Centre or, as appropriate, your local KPMG tax advisor.

Robert van der Jagt
Chairman, KPMG's EU Tax Centre and
Partner, Meijburg & Co
vanderjagt.robert@kpmg.nl

Barry Larking
Director EU Tax Services, KPMG's EU Tax Centre
larking.barry@kpmg.nl

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