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## **PLATFORM FOR TAX GOOD GOVERNANCE**

### **Work Programme**

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## **PLATFORM ON TAX GOOD GOVERNANCE 2015-19**

On 17 June 2015, the Commission adopted a Decision<sup>1</sup> to prolong the mandate of the Platform of Tax Good Governance, extend its scope and enhance its working methods. This Decision was directly linked to the new Action Plan for Fair and Effective Corporate Taxation, adopted on the same day.

The Action Plan provides the basis for a comprehensive agenda for corporate tax reform in the EU over the coming years. It sets out a series of initiatives for the short, medium and long-term, to tackle corporate tax avoidance, ensure sustainable public revenues, ensure a fair tax system and create a pro- growth tax environment in the Single Market.

The Platform for Tax Good Governance has an important role in advancing this ambitious agenda. It is a forum from which the Commission can draw on the cross-cutting expertise of representatives from business, civil society, trade unions and national tax administrations, to help shape a balanced, well-founded and effective approach to corporate tax challenges. The Platform can provide valuable input into the development and implementation of EU tax initiatives over the coming years. It also has an important role in monitoring developments in the corporate tax environment – in Europe and internationally – and exploring solutions to challenges that arise.

The Platform's work programme will focus on key areas of EU corporate tax policy where it can provide real added value, either by actively contributing to certain non-legislative initiatives, advising on the development of policy and legislation or providing feedback on the progress being made in this field. To avoid overlap and to respect institutional roles, the Platform will not cover issues that are being discussed or negotiated in Council.

The new Platform mandate runs from 17 June 2015 to 16 June 2019. Its work will be conducted through a mixture of plenary sessions and sub-group sessions, as appropriate.

The following document sets out the broad framework of the Platform's Work Programme during this mandate. It reflects the Commission's main priorities in this policy area for the years ahead, along with the feedback received from members of the Platform. In light of the current fast pace of developments in the EU and international corporate tax agendas, this document sets out the identifiable priorities up to the end of 2017. The Work Programme will be reviewed and updated at the end of that period, to reflect new developments. It will also remain flexible enough to integrate new corporate tax policy issues, as they arise.

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<sup>1</sup> Commission Decision C(2015) 4095 establishing the Commission Expert Group "Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation" and replacing Decision C(2013)2236

## **WORK PROGRAMME 2015-2017**

This work programme of the Platform is aligned to the 5 key areas in the Action Plan for Fair and Effective Corporate Taxation. Within each of these headings, the Commission has identified issues on which the input of the Platform would be particularly useful. These topics also reflect new issues that have arisen in the corporate tax agenda since the Action Plan was adopted.

### **1. EFFECTIVE TAXATION**

#### **1.1 Consolidated list of third countries listed by Member States for tax purposes**

The Action Plan announced a series of new EU initiatives aimed at ensuring that profits generated in the EU are effectively taxed in the EU. This included measures to build a common EU approach to promoting tax good governance internationally, in order to address external base erosion risks to the Single Market.

As a first step in addressing these external risks, the Commission published a consolidated list of third countries listed by EU Member States for tax purposes, together with the Action Plan. This "pan-EU" list was purely a public amalgamation of national lists, which had been independently compiled by Member States that have such lists. Nonetheless, it prompted a move towards a more coordinated approach to listing third countries.

In May 2016, EU Finance Ministers endorsed a new EU listing process that was proposed by the Commission in the External Strategy for Effective Taxation. They called for a first "common EU list" of third countries to be compiled in 2017. Parliament has also voted in favour of an EU list of non-cooperative jurisdictions, including in the recommendations of its Special Committee on Tax Rulings. This common EU list will be based on clear, objective, internationally-recognised criteria and a robust screening and dialogue process with third countries. It will be taken forward through the Code of Conduct Group, the Council, with the support of the Commission.

However, while the common EU list is being developed, the consolidated information on Member States' national lists (i.e. the "pan-EU list") should continue to be updated and published at least once a year. The Platform should provide the information needed to update the pan-EU list. It should also continue to pursue a wider discussion on listing for tax purposes, including the exchange of information on national practices, in light of EU and international developments in this area.

**Issues to be discussed include:**

- Understanding and improving the consistency of Member States' criteria/assessments.
- Exchanging data to update the consolidated list of third countries ("pan-EU list").
- Discussing criteria for EU assessment of third countries' good governance standards.
- Discussing counter-measures against non-cooperative and/or no-zero tax jurisdictions.

**1.2. Good governance support to developing countries**

The Platform should investigate ways to support developing countries in the field of tax good governance, in line with the External Strategy on Effective Taxation<sup>2</sup>.

Topics to be looked at include supporting developing countries' integration into the international tax good governance framework, providing assistance for domestic revenue mobilisation, implementing commitments made under the Addis Tax Initiative<sup>3</sup> and encouraging further membership. Furthermore the Platform should discuss best practise and methods to examine the impact of national, EU and/or international tax policy measures on developing countries with a view to addressing its spill-over effects. The Platform discussions on tax and developing countries should also be forward-looking, to consider issues which may not yet have been sufficiently addressed in this context at EU or international level.

**Issues to be discussed include:**

- Identifying possible actions to build tax administrations' capacity in developing countries in relation to tax good governance and other international standards, including interactions with other international initiatives, such as the Platform for Cooperation on Tax (IMF, World Bank, OECD, UN).
- Best practise/ options for examining possible spillover effects of Member States' and EU tax policy measures on developing countries and providing tools to assist Member States to do so, as well as options for spillover analysis at EU level.
- Discussing a common approach for Double Tax Agreements (DTAs) with developing countries.
- Identifying ways to support an inclusive global tax reform agenda, by encouraging developing country participation in the BEPS inclusive framework, where developing countries are represented on an equal footing and supported by fully participating in the process.

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<sup>2</sup> COM (2016) 24 adopted by the Commission in January 2016 and endorsed by ECOFIN in May 2016.

<sup>3</sup> <http://www.un.org/esa/ffd/ffd3/wp-content/uploads/sites/2/2015/07/Addis-Ababa-Action-Agenda-Draft-Outcome-Document-7-July-2015.pdf>

- Discussing how the EU can actively contribute to the successful implementation of the commitments made under the 2015 Addis Tax Initiative.

## **2. CCCTB**

The Action Plan announced the Commission's intention to re-launch the Common Consolidated Corporate Tax Base (CCCTB), with a new proposal in 2016. This proposal will make the CCCTB mandatory, at least for multinationals. It will also create a staged approach for agreeing and implementing the CCCTB. In the first step, consolidation will be postponed, as the most difficult element in negotiations so far. Member States should be able to progress more quickly on other aspects of the CCCTB, particularly the common base and international elements to prevent base erosion and profit shifting. Once the common base is secured, consolidation will be introduced as the second step.

The Commission has already started preparatory work for the revised (C)CCTB proposal, including a public consultation and impact assessment work. The Commission is also keen to gather input from informed stakeholders and national experts during this preparatory phase, therefore the Platform will be consulted prior to the CCCTB proposal launch since it provides the ideal forum to do this.

### **Issues to be discussed include:**

- How a mandatory CCCTB for multinationals could apply to other companies, if at all.
- How to sustain the momentum in the Council negotiations and structure the input of the stakeholders in the discussions to ensure the consolidation phase is achieved.
- How to anticipate interrelations between a CCCTB and implementation of common accounting rules, including Country-by-Country Reporting.
- How to ensure a well-functioning CCCTB in relation to third countries.
- How to avoid 28 different Member States' interpretations of the CCTB rules in the first multiple years phase prior to the final CCCTB phase.

## **3. TRANSPARENCY**

The Commission launched an ambitious agenda to improve tax transparency in the EU, and major new legislative initiatives have already been adopted in this area.

These include new rules for the mandatory automatic exchange of information on tax rulings and the automatic exchange of information between tax authorities on multinationals' tax-related information on a country-by-country basis. In April 2016, the Commission also proposed public Country-by-Country Reporting for multinationals in the EU and yet-to-be

determined list of jurisdictions that pose specific tax challenges. These initiatives will lay the ground for much greater openness and cooperation between Member States on corporate tax matters in the EU.

The Commission is determined to pursue the highest possible level of transparency in taxation, while also remaining vigilant with regard to data protection, confidentiality, the impact such measures could have on EU growth, the need to ensure a level-playing field and tax fairness.

In this respect, there may be scope for further tax transparency initiatives in the future. The Platform should help to identify areas where EU-level action to increase tax transparency may still be merited and contribute to the development of any new initiatives in this field.

**Issues to be discussed include:**

- The scope and necessity for possible further tax ruling initiatives, such as the publication of rulings.
- The scope and necessity for further transparency measures in corporate taxation, including possible information exchange on beneficial ownership information and administrative cooperation among different fiscal authorities in this field.
- The scope and necessity for new transparency requirements for promoters and enablers of tax planning schemes, inspired by BEPS Action 12.
- The impact of new tax transparency measures on competitiveness and tax fairness in the EU.
- The impact of new tax transparency measures on developing countries.

## **4. A BETTER FAIRER TAX ENVIRONMENT FOR ALL**

### **4.1. Tax dispute settlement**

In the Action Plan, the Commission announced that it will propose improvements to the current mechanisms to resolve double taxation disputes in the EU. The aim is to create a coordinated EU approach to dispute resolution, with clearer rules and more stringent timelines, building on systems already in place. The Commission intends to present a proposal on Dispute Resolution before the end of 2016. This Platform can give important insight into the current arbitration problems and assist in shaping the development of the proposal.

**Issues to be discussed include:**

- To provide feedback on the ongoing Commission work on dispute resolution and to propose a mechanism of mandatory and binding arbitration between MS and leading the world in this difficult area.
- To provide feedback on the potential need for envisaging further measures to the benefit of SMEs, cross-border companies, individuals and administrations in the EU.
- To provide feedback on proposals presented by governments, academics and organisations.

**4.2. Tax and Growth**

In addition to tackling corporate tax avoidance, the Action Plan also aims to create a more competitive and growth-friendly corporate tax environment for the EU. This requires more simplicity, certainty and level playing field competition for businesses, including SMEs, and investors in the Single Market, as well as legal clarity and minimum tax obstacles for companies operating cross-border.

Tax issues are important to deliver the Investment Plan and a true Capital Markets Union. Taxation play a role in removing barriers to financing and creating an environment supportive of investment and innovation including for young companies that foster innovation dynamics and are an engine of job creation. Within the European semester, the Commission communication from May 2016 concludes that there are remaining inefficiencies in many taxation systems that hamper investment and tax collection. More can be done at the EU and national level to boost investment through tax policy means, in particular by encouraging alternative sources of financing, designing more cost-effective incentives for research and innovation and cutting compliance costs for entrepreneurs, amongst others by expanding digital services.

The Platform should examine the main tax obstacles to long-term sustainable growth in the EU, the Platform will consider possible solutions or new initiatives that may be needed in this regard.

**Issues to be discussed include:**

- How EU and national tax policies can better support growth, innovation and competitiveness.
- How to increase tax certainty for businesses, as EU and international tax reforms are being implemented.
- How to ensure a level-playing field for all businesses, including for SMEs and innovative start-ups, in corporate taxation.
- How taxation policy can support the development of a Capital Markets Union.

- How tax policy can remove tax obstacles for cross-border investments, activities and trade.

## **5. COORDINATION OF TAX AUDITS BY MEMBER STATES**

The Action Plan sets out measures to improve coordination between Member States on corporate tax issues, to better address the common challenges they face in this area by maximising the potential of current coordination instruments.

The Decision on the Platform on Tax Good Governance was one such coordination initiative. Another is to launch a discussion on to better implement the provisions in the Directive on Administrative Cooperation – which already provides for cooperation between Member States on tax inspections and audits.

### **Issues to be discussed include:**

- The need for adequate human and material resources in tax administrations.
- Ways of creating a more strategic approach to auditing cross-border companies such as joint audits made by cooperating with tax administrations.
- Options for enhancing information exchange between Member States on their controls.

## **6. OTHER ISSUES**

This Work Programme prioritises core areas of work for the period 2015-2017. It will be reviewed and updated at the end of that period to reflect new developments and priorities in the EU's corporate tax agenda. This does not preclude discussions on other issues in the field of tax good governance in the meantime and members are welcome to put forward topics that they may consider important to discuss in the Platform.

The Commission will also keep members updated on the latest state of play on various initiatives within the agenda for fair and effective corporate taxation.