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EU JOINT TRANSFER PRICING FORUM

Contribution from a Member State on the masterfile concept

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**Centre de Conférences Albert Borschette
Rue Froissart 36 - 1040 Brussels**

Contact:

Luc De Hert, Telephone:(32-2) 295.61.20, Luc.De-Hert@cec.eu.int

Wolfgang Büttner , Telephone (32-2) 299.99.38 Wolfgang.Buettner@cec.eu.int

As regards the masterfile concept, the Greek tax authorities would like to submit the following comments:

Greece would welcome the introduction of a pan-European system ensuring the provision of some basic, standard information on multinational groups which could serve as a roadmap for the tax authorities in selecting cases for further auditing. However, we consider it very important to ensure that this system will not disadvantage the tax authorities of countries hosting mostly subsidiaries of multinational groups (e.g Greece), by making their access to basic information more complicated and time consuming.

It has to be noted that Greek tax authorities, which are by law obligated to conclude the auditing procedure within very tight time limits, are already experiencing difficulties (mainly long delays) when requesting relevant information from abroad, and are understandably skeptical towards a system which would officially establish that the very basic information contained in the masterfile will not be available within Greece, but will be held in the headquarters of a different legal entity (the parent), having its seat in another jurisdiction.

Imposing fines on the subsidiary (whose only actual power would be requesting its parent to hand over such information) for the delay or failure of the parent to comply, i.e of another, foreign legal entity, is not seen as an effective remedy, being legally ambivalent and bound to lead to litigation, even longer delays and complications, depending on the legal system of each country.

In order to avoid such hazards and render the system more effective for all parties concerned we would propose that the masterfile information is filed and stored in a data base directly accessible by certain authorized users from national tax administrations (e.g a central data base similar in its features to CIRCA), possibly offering limited access to the users each time, depending on the specific case. The technical features of the system should, of course, be the object of further elaboration.

The data will be filed in a common language (English), the authorized users will be tax officials with a good command of the language, and they would be bound to secrecy by strict obligation.

The basic information contained in such a masterfile should include:

- Description of business
- Organizational chart (including description of the participation of the parent company in the subsidiaries)
- Description of controlled transactions
- Description of the transfer pricing method used and justification of the method selected if it is different from the standard CUP (comparable uncontrolled price) method

Care should be taken that the information is structured in a way that allows the users to locate easily the specific pieces that are essential for their operations.

In order to improve the system's efficiency, consistency and reliability a formula should be found (e.g through work in the OECD) so that non –EU parent companies can participate as well.

Finally, Greece agrees with the adoption of the Community definition of parent company (in Council Directive 90/435/ EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States) and of the OECD Model Tax Convention definition of associated enterprises, for the purposes of the masterfile since these concepts are defined in the Greek legislation more or less according to the above international standards.