



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION  
Direct taxation, Tax Coordination, Economic Analysis and Evaluation  
**Company Taxation Initiatives**

Brussels, 15 September 2015  
TAXUD D1

**Doc: Platform/14/2015/EN**

## **PLATFORM FOR TAX GOOD GOVERNANCE**

**Work Programme 2015-2019**

**Meeting of 24 September 2015**

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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 Taxation, adopted on the same day.

Together with the Tax Transparency Package of 18 March 2015, the Action Plan provides a comprehensive agenda for corporate tax reform in the EU over the coming years. The Platform for Tax Good Governance will have an important role in advancing this ambitious new agenda, using the cross-cutting expertise of its members from business, civil society and national tax administrations.

The Action Plan sets out a series of initiatives for the short, medium and long-term, to tackle corporate tax avoidance, ensure sustainable revenues and create a pro-business, pro-growth tax environment in the Single Market.

On one hand, the Action Plan creates the basis for an EU approach to implementing the OECD BEPS measures, which are due to be finalised this year. It is crucial that these new international standards are implemented in a coherent and consistent way within the EU. This will prevent divergent national approaches from fragmenting the Single Market, reducing the Member States' overall competitiveness and exposing the EU to external risks to its tax base.

At the same time, the Action Plan underlines that the EU needs its own corporate tax agenda, aligned with the international reforms but also addressing specific internal challenges and responding to external threats. In this respect, many initiatives focus on building a more coordinated EU approach on corporate taxation through a balanced mix of hard and soft law, improvements to current instruments and the development of new ones.

The Platform for Tax Good Governance can provide valuable input into the development and implementation of the various initiatives set out in the Action Plan. It also has an important monitoring role, to ensure that corporate tax measures agreed at EU level are effectively implemented at national level.

The Platform's work programme will focus on key areas of the Action Plan where it can provide real added value, either by actively contributing to certain initiatives, advising on the development of policy and legislation, or monitoring the follow-up on agreed actions.

The new Platform mandate runs from 17 June 2015 to 16 June 2019. Its work will be conducted through a mix 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 main priorities in this policy area for the years ahead, along with the feedback received from members of the Platform during the meeting of 10 July 2015. The Work Programme will remain flexible enough to integrate new corporate tax developments or 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 2015-2019**

The new work programme of the Platform is aligned to the 5 key areas of action in the Action Plan for Fair and Effective Taxation. Within each of these headings, the Commission has identified issues on which the input of the Platform would be particularly useful.

### **1. EFFECTIVE TAXATION**

#### **1.1. Pan-EU list of third country jurisdictions listed by Member States for tax purposes**

In order to tax profits generated in the EU effectively, common measures are needed to stop profit shifting out of the EU. This requires a common approach to assessing third country jurisdictions' compliance with EU tax good governance standards.

As discussed and agreed with the Platform in 2014, the Commission published a pan-EU list of third country jurisdictions listed by EU Member States for tax purposes, as part of the Action Plan. Although the list is purely a consolidation of Member States' national lists, it is nonetheless an important move towards a more coordinated approach to protecting the Single Market from profit shifting towards third countries.

A common EU approach to assessing third country jurisdictions would be a vast improvement on the patchwork of national approaches that exist today. Not only would it serve as a greater deterrent for non-cooperative jurisdictions, but it would also create more clarity and legal certainty for businesses and the EU's international partners.

The Platform will be the primary forum for the evolution of the pan-EU list and for the development of a more coordinated EU approach. The Platform should also consider the approach for EU screening of third country jurisdictions, in order to focus work on those territories whose tax systems have the greatest impact on the EU.

The Action Plan also lays the ground for a wider political discussion on how to ensure that profits generated in the EU are taxed in the EU, and at the right level. Tackling double non-taxation is central to this debate. While the work of the Platform should not duplicate ongoing discussions in Council, there are certain key issues which should be explored, such as how to ensure that profits made in the EU cannot be shifted to no/low tax third countries, untaxed.

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

- Understanding and improving the consistency of Member States' criteria/assessments
- Updating national lists and the pan-EU list
- Interaction with jurisdictions that feature on the pan-EU list
- Determining criteria for EU assessment of third countries' good governance standards
- Considering possible counter-measures against non-cooperative jurisdictions
- Ensuring effective taxation in relation to low tax third countries

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

The Platform should investigate ways to assist developing countries in implementing good governance standards, with a view to developing recommendations for improvements in this area.

Discussions could cover any action that would help developing countries to implement EU good governance standards, such as capacity building, the definition of a common approach for Double Tax Agreements (DTAs) with developing countries, and the inclusion of a tax good governance provision in relevant agreements with third countries.

It is essential that developing countries have the capacity to integrate new international good governance standards – both for their own economic sustainability and to prevent them from being exploited by aggressive tax planners, as the weakest link in the global tax structure. EU support in helping developing countries to strengthen their administrative capacity and apply international standards is critical in this respect.

Another issue for consideration is how to ensure that Double Tax Agreements with developing countries are development friendly. In the BEPS context, some changes to DTAs will have to be made due to reforms of international tax rules and norms. Some developing countries fear that if they accept a renegotiation of their DTA, they might end up with a worse outcome than present. One way to address this would be for the EU to agree on common principles and a common approach for (re-)negotiating DTAs with developing countries. Experience could be drawn from the EU's experience in devising development friendly international agreements, notably in the area of trade.

Issues to be discussed include:

- Identifying possible actions to build administrative capacity in developing countries in relation to good governance and other international standards
- Defining a common approach for Double Tax Agreements (DTAs) with developing countries;
- Identifying the best way to monitor the implementation of good governance provisions in agreements with developing countries.

## **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)CCCTB proposal, which will include 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, and the Platform provides the ideal forum to do this.

In particular, the following issues could be discussed:

- How a mandatory CCCTB for multinationals could apply to other companies, if at all.
- How best to implement cross-border loss offset as a temporary measure to support companies until consolidation is introduced.
- Possible discussion on other subjects such as corporate debt bias or R&D schemes.

### **3. TRANSPARENCY**

The Commission has launched an ambitious agenda to improve tax transparency in the EU, through both the Tax Transparency Package and the Action Plan. Key measures include a proposal for the automatic exchange of information on tax rulings, and work to explore further transparency measures for companies (such as Country-by-Country Reporting).

While work on the tax rulings proposal is already well advanced in the Council, there may be scope for further initiatives related to tax rulings at a later stage – particularly in view of the state aid cases currently underway.

With regard to further transparency measures, a public consultation was carried out between July and September 2015, which will feed into the impact assessment work in this area. This impact assessment is due to be concluded in the first half of 2016.

Issues that could be discussed include:

- The scope and necessity for possible further tax ruling initiatives, such as the publication of rulings or guidelines for Member States in issuing rulings.
- The scope and necessity for further transparency measures in corporate taxation, including possible requirements for companies to disclose certain tax information.

## **4. A BETTER TAX ENVIRONMENT FOR BUSINESS**

### **4.1. Arbitration**

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 the systems already in place. This Platform can give important insight into the current arbitration problems and assist in shaping an EU response.

Issues to be discussed include:

- Extending the scope of the Arbitration Convention.
- Whether turning it into an EU instrument would be more efficient in resolving double taxation disputes for companies in the Single Market.

#### **4.2. Other issues related to improving the tax environment for business**

The creation of a Capital Markets Union (CMU) is a key priority for the Juncker Commission, and ties in with the Commission's Investment Plan for jobs and growth. It aims to create deeper and more integrated capital markets across the EU's 28 Member States. The Commission will present a CMU Action Plan in September 2015, drawing on the first findings from its public consultations.

Taxation will clearly have an important impact on the functioning of the eventual CMU. Taxation may be a cause of market fragmentation which prevails in the investment fund sector. Investors may be penalised when investing cross-border if local withholding taxes which are difficult to reclaim are applied, in addition to their domestic withholding tax. The problem stems from different national approaches to the application of withholding taxes and the complexity of procedures to claim relief from these taxes. The Platform should examine possible solutions to these issues, as well as any other tax issue that arises in the context of CMU.

Issues to be discussed include:

- Withholding tax relief procedures for individuals;
- Other cross-border tax obstacles in the context of the actions to be put forward in the CMU Action Plan.

### **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 how the provisions in the Directive on Administrative Cooperation – which already provides for cooperation between Member States on tax inspections and audits - could be better implemented.

Issues to be discussed include:

- Ways of creating a more strategic approach to auditing cross-border companies.
- 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 2015-2019. Given that there will be a renewal of the Platform membership in April 2016, the focus until the end of the current mandate should be on the most pressing policy areas that need to be advanced, in line with the wider political agenda. Effective taxation, tax transparency and CCCTB should be front-loaded in the timetable of topics to be discussed.

This does not preclude discussions on other issues in the field of tax good governance, however, in line with the latest developments. Members are welcome to put forward topics that they may consider important to discuss in the Platform. However, it should be assessed whether meaningful progress can be made on a new topic within the tight timeframe of the current mandate, or whether the topic could be dealt with more comprehensively once the renewed Platform membership is established.

The Commission will also keep members updated on the latest state of play in the work to advance each of the initiatives from the June 2015 Action Plan.