



EUROPEAN COMMISSION

DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION

Direct Taxation, Tax coordination, Economic Analysis and Evaluation

Company Taxation initiatives

**SUMMARY RECORD OF THE  
MEETING OF THE PLATFORM FOR  
TAX GOOD GOVERNANCE,  
AGGRESSIVE TAX PLANNING &  
DOUBLE TAXATION**

**held on**

**29 February 2024,  
09H30 – 13H00**

**at**

**ALBERT BORSCHETTE conference centre, room 2A**

## **1. WELCOME AND INTRODUCTION**

The meeting was chaired by Mr Benjamin Angel, Director for Direct Taxation, Tax Coordination, Economic Analysis and Evaluation, at the EU Commission Directorate General Taxation and Customs Union.

The agenda included:

- Study commissioned by the European Parliament on “Good practices in the fight against tax avoidance: the signalling role of FDI data”;
- Spanish Solidarity Tax on Large Fortunes;
- Study commissioned by DG INTPA on Tax-Motivated Illicit Financial Flows.

## **2. STUDY ON GOOD PRACTICES IN THE FIGHT AGAINST TAX AVOIDANCE**

The study, commissioned by the European Parliament (Subcommittee on Tax Matters), examines Foreign Direct Investment (FDI) as an indicator of tax avoidance. Professor A. Lejour (Tilburg University) presented the main findings, which suggest a link between abnormal FDI patterns and the possible existence of preferential or even harmful tax arrangements in concerned countries. Among the top 25 countries with the largest inward and outward FDI stocks in 2021, those with the largest FDI/GDP ratio are singled out as ‘tax havens’ (according to definitions and classifications in economic articles). When linking anomalies to harmful tax practices, the study distinguishes between two different types of ‘tax havens’. On the one hand, ‘traditional tax havens’ are considered attractive because of zero tax rates and uncooperative behaviour. On the other, ‘European tax havens’, also described as ‘conduit countries’, are argued to have business-friendly policies that allow multinationals to redirect their investment flows and corresponding returns. The study suggests specific examinations of the rules by country to identify concrete harmful practices. To reduce the conduit function of certain EU Member States, the study puts forward several policy recommendations, including proposals like BEFIT (with a common tax base), effective anti-tax abuse rules in ATAD-3 directive (or UNSHELL Directive), common withholding taxes, more tax transparency (expand Directive on Administrative Co-operation in the field of taxation (DAC) and the Country-by-Country Reporting Directive (CbCR)), as well as the implementation of the global minimum tax agreement.

Members of the Platform welcomed the study’s contribution to the identification of tax havens and agreed with the proposed recommendations. However, several speakers from professional associations and the academia considered that the period of research (2009-2021) did not reflect the impact of important EU measures, such as the Anti-Tax Avoidance Directives (ATAD) 1 and 2, as these rules were still in implementation. It would thus be interesting to extend it beyond 2021, as many other initiatives against corporate tax avoidance have only come into effect in recent years or are still being implemented or negotiated. In their view, future research should focus on the effectiveness of different measures, considering not only legislative changes but also the evolution of the case law of the EU Court of Justice. This could pave the way for the ‘decluttering’ of national rules, particularly in light of the global minimum tax implementation, as some may no longer be fit for a purpose. Such discussions could be continued under the new mandate of the Platform for Tax Good Governance.

A speaker from a civil society organisation noted that the study should lead to a re-assessment of different measures undertaken at the EU level, including on the focus of the EU list of non-cooperative jurisdictions for tax purposes. Representatives from professionals' associations and another civil society organisation argued that more could be done to improve the work done within the EU to address harmful tax practices, particularly within the Code of Conduct Group for Business Taxation and the European Semester, as well as by adding an external dimension to existing legislative acquis as regards harmonisation (i.e. the Parent-Subsidiary Directive and the Interest and Royalty Directive). They welcomed the recent proposals put forward by the European Commission, namely UNSHELL and BEFIT, but thought that these could be more ambitious (e.g. BEFIT should have covered the redistribution of taxing rights). A speaker from a civil society organisation suggested that in absence of Pillar One addressing reallocation of taxing rights, the EU should reconsider an agreement on digital services tax.

Speakers from a civil society organisation and a business organisation also saw merit in extending the research to other areas, for example the longevity of tax havens, or new forms of harmful tax competition, such as the increasing subsidies' race.

In his replies, Professor Lejour addressed several of the comments made. In particular, he agreed that there is scope for more in-depth research, including on effectiveness of different measures, but much depends on the availability of relevant data. The Chair provided more details on the work of the Code of Conduct Group and the efforts to address aggressive tax planning in the context of the European Semester and the assessment of national Recovery and Resilience Plans.

### **3. SPANISH SOLIDARITY TAX ON LARGE FORTUNES**

A representative of the Spanish delegation gave an overview of the main features of two closely related measures: the recently-enacted solidarity contribution on large fortunes and wealth tax in Spain. The wealth tax is applied since 1992 on the net wealth of individuals based on the requirements of the different autonomous communities. In 2022, the Spanish government decided to impose an additional solidary tax on large fortunes (STLF) targeted at the wealthiest individuals (with assets above EUR 3 million), to raise additional revenues in response to the cost-of-living crisis. This temporary tax, in force from 2023, is configured as a complementary tax to wealth tax, similar to it in structure but has not been transferred to the regions. The amount paid in the net wealth tax is deductible, so double taxation is avoided, as taxpayers in scope of the temporary tax are only subject to the STLF on the part of their assets that has not been taxed by their regions. The STLF was originally envisaged to be in force for two years, but after it was reviewed, its application has been extended. The collection from both STLF and the wealth tax totalled EUR 1,853 million in 2022. Of EUR 624 million raised by the STLF, more than 90% were collected mainly from the regions that did not collect the wealth tax. That said, the collection from the personal income tax was much higher, amounting to EUR 109,485 million.

Wealth taxation is very topical. One of the proposals included in the EU Tax Observatory report, discussed at the last meeting of the Platform, is a global minimum tax on billionaires. This proposal was also recently presented to G20 leaders, while the Brazilian G20 Presidency has made taxing super rich one of its priorities. A speaker from a civil society organisation recalled about the 2023 European Citizens' Initiative proposing a European tax on great wealth but noted that Member States should also be encouraged to introduce such measures nationally, following the example of Spain. Questions were raised on the availability of information on foreign assets,

added value of a European registry, and possible relocation effects.

The Spanish representative noted that so far there has been no confirmation of capital that escapes, but this is being monitored. In order to gather information on assets located abroad, a model declaration was introduced in 2010, which covers bank accounts, shares and real estate. Other sources of information have also proved useful, namely national registers, notaries, as well as DACs. A European registry would be useful in this regard.

#### **4. STUDY ON TAX-MOTIVATED ILLICIT FINANCIAL FLOWS**

A representative from DG INTPA presented a study on “Fostering Change: Tax-Motivated Illicit Financial Flows” (TIFF). The objective of this study is to propose a COM approach to TIFF. In this regard, the study explores the complex definitions of IFFs, noting the advantages and disadvantages of using a narrow vs broad approach. Based on wide consultations with different stakeholders, the study recommends that COM promotes a broad, multifaceted, developmental definition, to factor in tax avoidance and ensure a comprehensive scope. The study reviews the main challenges faced by developing countries (with a focus on African countries), takes note of the existing global efforts to combat them, and presents policy recommendations for further action at the European level. In particular, the study identifies avenues for increased EU intervention in three areas:

- (i) strategic intermediation to champion tax reform and transparency (i.e., engagement with the UN tax reform, close collaboration with the African Union Commission, developing partnerships with different multilateral organisations, exploring feasibility of automatic exchange of information on vessels);
- (ii) strengthening cooperation, collaboration and coordination with developing countries through technical assistance (i.e., to support implementation of the Two-Pillar solution, advance transparency agenda, harmonise anti-money laundering measures with tax compliance efforts, and strengthen their capacity for effective recovery of assets from TIFFs);
- (iii) innovative capacity building for the 4<sup>th</sup> and 5<sup>th</sup> industrial revolution (i.e., enhancing digitalisation of tax and customs systems; promoting integrity and transparency to combat corruption and illicit financial flows).

The study was received with great interest by the members of the Platform. Speakers from civil society organisations noted its timeliness and relevance in light of the ongoing discussions in the UN on a Framework Convention for International Cooperation in Taxation.

A speaker from a professionals’ association raised an additional difficulty in defining IFFs, which stems from a semantic ambiguity of concepts such as tax evasion/tax avoidance/fraud and leads to loopholes in legal systems. To complement the focus on collaboration, coordination and cooperation suggested by the study, the speaker highlighted the need for convergence on key principles (transparency, beneficial ownership, anti-money laundering) among different stakeholders.

Several representatives from civil society organisations welcomed the broad definition of TIFFs and stressed the importance of ensuring policy coherence for development. They argued that more consideration should be given to negative spillovers from internal EU policies, in particular by

reviewing bilateral tax treaties. Speakers from civil society organisation stressed that the EU could do more to address data capacity challenges, including by amending the CbCR Directive to ensure reciprocal access by partner countries. They also argued for increased efforts to provide technical assistance, supported by a representative from a professionals' association. In this respect, a representative from a Member State suggested that consideration could be given to having structured meetings at technical level with relevant partners, similar to TADEUS.

In connection with the ethical conduct, some recent developments were mentioned, notably a project on Professional Judgment in Tax Planning (CFE) and approval of Ethics Standard for Tax Planning and Related Services (International Ethics Standards Board for Accountants).

In reply to the comments, the DG INTPA representative provided some additional clarifications on the scope and methodology of the study. The follow up to the findings will entail moving the needle on the policy side, active engagement in the tax and customs agenda-setting within the relevant multilateral fora, as well as deploying regional funds from external delegations to do more on the ground.

## **5. ANY OTHER BUSINESS**

COM informed about:

- The launch of the public consultation on the Dispute Resolution Directive and the evaluation of DAC (end of March/beginning of April 2024);
- The current mandate of the Platform is ending on 16 June 2024. The new mandate is under preparation. Once the dedicated COM decision is adopted, a call for applications will be launched to select member organisations of the Platform. Further information will be shared in due time.
- The first meeting of the Platform under the new mandate is planned for 4 July 2024 (date still to be confirmed). The agenda of the meeting will include an item on decluttering of the existing rules in direct taxation for discussion.