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EU JOINT TRANSFER PRICING FORUM

SECRETARIAT INFORMATION NOTE ON THE FISCALIS 2004-2005 ACTION PROGRAM

Meeting of Thursday 16 September 2004

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1. INTRODUCTION

On 3 December 2002 the European Parliament and the Council adopted the Fiscalis 2003-2007 program.¹

The overall objective of this programme is to improve the proper functioning of the taxation systems in the internal market by increasing cooperation between participating countries, their administrations and officials.

The activities of the programme consist of communication and information-exchange systems; multilateral controls involving Member States which have bilateral or multilateral agreements either with one another or with Member States permitting such activity; seminars; exchanges and training activities.

For the management of the program, the Commission is assisted by a Committee composed of delegates from Member States (comitology procedure) which meets twice a year and adopts inter alia, FISCALIS action programs on a yearly basis.

2. ACTIONS ALREADY UNDERTAKEN ON TRANSFER PRICING

2.1. During 2003

A first transfer pricing training event was organised in Vilnius (Lithuania) on 18 & 19 November 2003.

The objectives of this event, addressed in particular to the new EU Member States, was to raise awareness and to become familiar with, the more global transfer pricing context and the EU Arbitration Convention.

The event, attended by 34 participants, was organised in co-operation with OECD of which speakers explained and discussed the Arm's Length Principle, comparability analysis, transfer pricing methodologies and mutual agreement procedures. They also presented a case study and highlighted the importance of developing an appropriate transfer pricing legislation. Speakers from a national tax administration and DG TAXUD introduced the theoretical and practical features of the EU Arbitration Convention.

Reactions of participants were unanimously very positive both on organisational and substantial aspects of this training.

2.2. During 2004

A second transfer pricing event will be organised on 23 & 24 November 2004 in Budapest and will deal with "Methodology of training for transfer pricing audits and organisational aspects of transfer pricing audit services."

¹ DECISION No 2235/2002/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 December 2002 adopting a Community programme to improve the operation of taxation systems in the internal market(Fiscalis programme 2003-2007) OJ L341 of 17.12.2002

The objective of this seminar, addressed to participants from all Member States, is to exchange experience and identify problems and solutions in the development and implementation of a methodology for training on transfer pricing audits and on organisational aspects of these audits including the mutual agreement procedures.

Besides general presentations from speakers from experienced and less or non-experienced national tax administrations, participants will be able to discuss these issues during different smaller workshops in a more intensive way.

2.3. During 2005

A third transfer pricing training event, adopted by the FISCALIS Committee, will be organised probably the first half of 2005 and will raise awareness with national tax administration about the use of database searches to identify transfer pricing comparables.

The agenda of the seminar, open to participants from all Member States, will consist of a theoretical introduction: cases where databases searches can be permitted to identify transfer pricing comparables, different existing databases, their content, their potential and deficiencies. This will be complemented by an in-depth hands on training where participants will work in groups on concrete database searches.

3. FURTHER PROSPECTS

During the last meeting of the FISCALIS Committee on 15 June 2004, numerous delegates expressed in favour of strengthening the direct taxation pillar of the FISCALIS programme and in particular favoured the increasing use of the exchange, multilateral control and seminar tool for this area.

In the context of the Forum's working program item on "preventive measures to avoid double taxation" and the aforementioned discussions in the FISCALIS Committee, DG TAXUD intends to propose the organisation, probably the second half of 2005, of a seminar to explore the possibilities of organising multilateral controls on transfer prices which, as expressed by several participants in the FISCALIS committee meeting, due to their nature are a primary issue for such controls.

Building on the experience already acquired in the field of indirect taxation, the seminar could identify the appropriate legislative framework, give guidance on the case selection procedure, establish a procedure for the practical organisation of multilateral controls etc.

This seminar should be followed-up to develop an efficient multilateral control instrument on transfer pricing and should of course result in the concrete execution of these controls which will equally be funded by the FISCALIS program.