Brussels, 15 June 2017
Taxud/D4

Doc: Platform/27/2017/EN

PLATFORM FOR TAX GOOD GOVERNANCE

Tax Certainty

Meeting of 15th June 2017

Disclaimer:

This is a Commission services working paper prepared by DG TAXUD for discussion purposes. It does not represent a formal Commission or Commission services position or policy. The paper is therefore without prejudice to any position which may be taken by the Commission in the future

Contact:
Secretariat Platform, Telephone (32-2) 29.55.762
E-mail: taxud-platform@ec.europa.eu

INTRODUCTION

Tax uncertainty typically derives from the institutional process and unclear tax rules at the domestic level. At the international level tax uncertainty has its roots in the lack of tax coordination and cooperation between countries.

Concerns about tax uncertainty's effects on business operations have intensified at international level as a result of the interplay of different factors: economic and political uncertainty, evolving business models and changes in international tax rules.

This presentation intends to illustrate some recent research in this area, in particular on the concept of tax certainty, its measurement, the theoretical predictions and the empirical findings from the literature based on a recent study published in the DG TAXUD working paper series. The paper also focuses on the current state of play, in particular on how recent policy initiatives at the international level bring certainty, as well as how EU policies aim to create a level playing field for all businesses in the EU.

BACKGROUND

Enhancing tax certainty, as a contributor to growth and trade, has become a new priority for the G20. The G20 Summit held in September 2016 asked the OECD and IMF to work on the issue of tax certainty to help policy makers to better understand key drivers of tax certainty, its impact on economic activities, and possible solutions.

In March, the OECD and IMF published a report on Tax Certainty, which set out the main sources of tax uncertainty and the key tools to reduce it, namely: better design of tax policy and legislation, less frequent changes in tax legislation, and reduced bureaucracy to comply with tax legislation.

In response to the report, the G20 Finance Ministers meeting in Baden-Baden welcomed international cooperation on pro-growth tax policies and encouraged countries to consider the practical tools to enhance tax certainty, including improved mechanisms for dispute resolution. Tax Certainty will be on the agenda again at the G20 Leaders' Summit in Hamburg in July.

At European level, a discussion on the topic of tax certainty took place at the informal ECOFIN meeting in April this year.

MAIN FINDINGS

Tax uncertainty can arise at many different stages of the tax policy and administration process. The higher the uncertainty in tax matters the more difficult it is to foresee the future tax bill from a firm perspective.

The theoretical literature finds that uncertainty in taxation is **very likely to have negative effects on investment and therefore on growth** under realistic model assumptions – like investment irreversibility or in general equilibrium settings – and for very relevant cases for economic growth – like **innovative investments and start-ups**.

This conclusion is in line with the empirical evidence, even though it is still very limited due to the difficulties in measuring tax uncertainty.

Some studies also suggest a positive association between the uncertainty of a firm's tax position and corporate tax avoidance, on the one hand, the dampening effect of tax planning on investment, on the other hand. The implication of this result is that **increasing tax uncertainty leads to more complex tax planning structure, which in turn contributes to more tax uncertainty**.

Two recent surveys on tax uncertainty have been conducted by the OECD in late 2016 and early 2017 among businesses and tax administrations (IMF-OECD, 2017).

According to **businesses**, uncertainty in corporate taxation and VAT is considered relevant for investment and location decisions. Considerable bureaucracy to comply with the tax legislation, including documentation requirements and unpredictable or inconsistent treatment by tax authority are considered as the two most important sources of tax uncertainty.

As regards **tax administrations**, the most important sources of tax uncertainty are related to tax policy design and legislation, dispute resolution, as well as taxpayer behavior in particular related to aggressive tax planning.

On the policies' effectiveness in reducing tax uncertainty, some studies show that having **tax** arrangement in place **such as Bilateral Tax Treaties and Mutual Agreement Procedures** help to improve the investment environment because such instrument offer legal certainty on tax issues associated to future business activities.

The available evidence points towards **joint audits, advance pricing arrangements, tax rulings and co-operative compliance** as important tools to reduce or eliminate tax uncertainty.

All recent Commission initiatives (e.g. ATAD, ATAD2, CCCTB, dispute resolution, and VAT actions) aim at creating a level playing field for all businesses in the EU and will have positive effects on tax certainty. Among latest developments, on 23 May **Member States agreed to amend the current system to resolve double taxation disputes within the EU**, a major contribution to strengthen tax certainty and improve business environment.

CONCLUSIONS

The paper concludes that tax certainty can be improved with policy initiatives both at the domestic and international level.

- At the domestic level, policy makers should focus their attention on planning tax reforms properly, with pre-announcement consultations, clearly communicating their content and timing, and more generally establishing a structured approach in managing the reform process.
- At the international level, boosting the cooperation on tax matters, and develop common approaches to fighting aggressive tax planning, an agreement on a clear and sustainable distribution of tax revenues for cross-border investment, as well as agreeing on transparent and non-harmful tax competition.

Platform members are asked to share their experience in this area and express their view on **how important is tax certainty from their perspective? How to achieve the right balance between tax certainty and reforms? What are their ideas in good practices to address the issues?**