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## **EU JOINT TRANSFER PRICING FORUM**

### **PRESENTATION**

## **JOINT AUDIT PILOT PROJECT GERMANY/THE NETHERLANDS**

**Meeting of 18 February 2016**

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# Joint Audit pilot GER-NL

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## Description of a Joint Audit

- OECD Definition:
- Joining together to form a single audit team
- Having a common or complementary interest
- Jointly gathering and sharing information
- Team includes competent authority representatives of all countries



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# Current EU legal framework

- Article 12 and Article 11 of EU Directive 2011/16 EU Direct taxes
- No additional agreements between NL and GER have played a role



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# Goals



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A working group for the project was created by the Ministries of Finance of GER and NL :

Main goals:

- is there sufficient legal framework?
- establish criteria for case selection
- is joint audit an efficient approach for tax administrations and corporations?



- National activities
- GER: Requests to tax offices for suitable cases
- NL: coordination group on transfer pricing selected cases
- Both lists of suitable cases were discussed in a working group and 5 cases were selected for joint audit



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## Selected cases



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### The companies

- 4 are listed on stock exchanges
- 1 family owned company
- Active in different lines of business
- 3 large and 2 medium sized companies
- 4 multinational enterprises and 1 company operating in NL and GER





- Bilateral audit teams were formed and each team agreed a working language
- In every case the audit object (transfer pricing between NL and GER) and audit period was defined
- All auditors and project group had a start meeting
- No MAP representatives of NL or GER were added to the audit teams



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# Auditing 1



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- A common audit approach was agreed within the teams
- All audit work was performed by the whole team
- Questionnaires were sent to the taxpayer
- Records and documentation were requested and audited
- If necessary interviews were conducted
- The conclusions were discussed with the taxpayer



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# Auditing 2



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- Audits were conducted within 12 months
- All audits resulted in common understanding and a joint report
- Agreement was reached with taxpayer
- The selected transfer pricing issues were solved and double taxation was avoided
- In NL the audit results were formalised in unilateral APA's for the future



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# Evaluation 1



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- A joint evaluation team was formed
- Project group members not involved in the audits
- Online questionnaires to audit teams
- Interviews with representatives of the taxpayers
- A joint evaluation report was presented to the Ministries of NL and GER



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# Evaluation 2



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## Evaluation of Business:

- Avoiding MAPS
- Quicker issue resolving
- Agreements for the future
- Organisational process needs more alignment
- Joint audits have to go beyond simultaneous examinations



## Evaluation of auditors and working group:

- Auditors should be involved in case selection process
- Differences in audit approach must be resolved
- All auditors have to have good language and transfer pricing skills
- Overall, all participants were satisfied with the audits as a whole.



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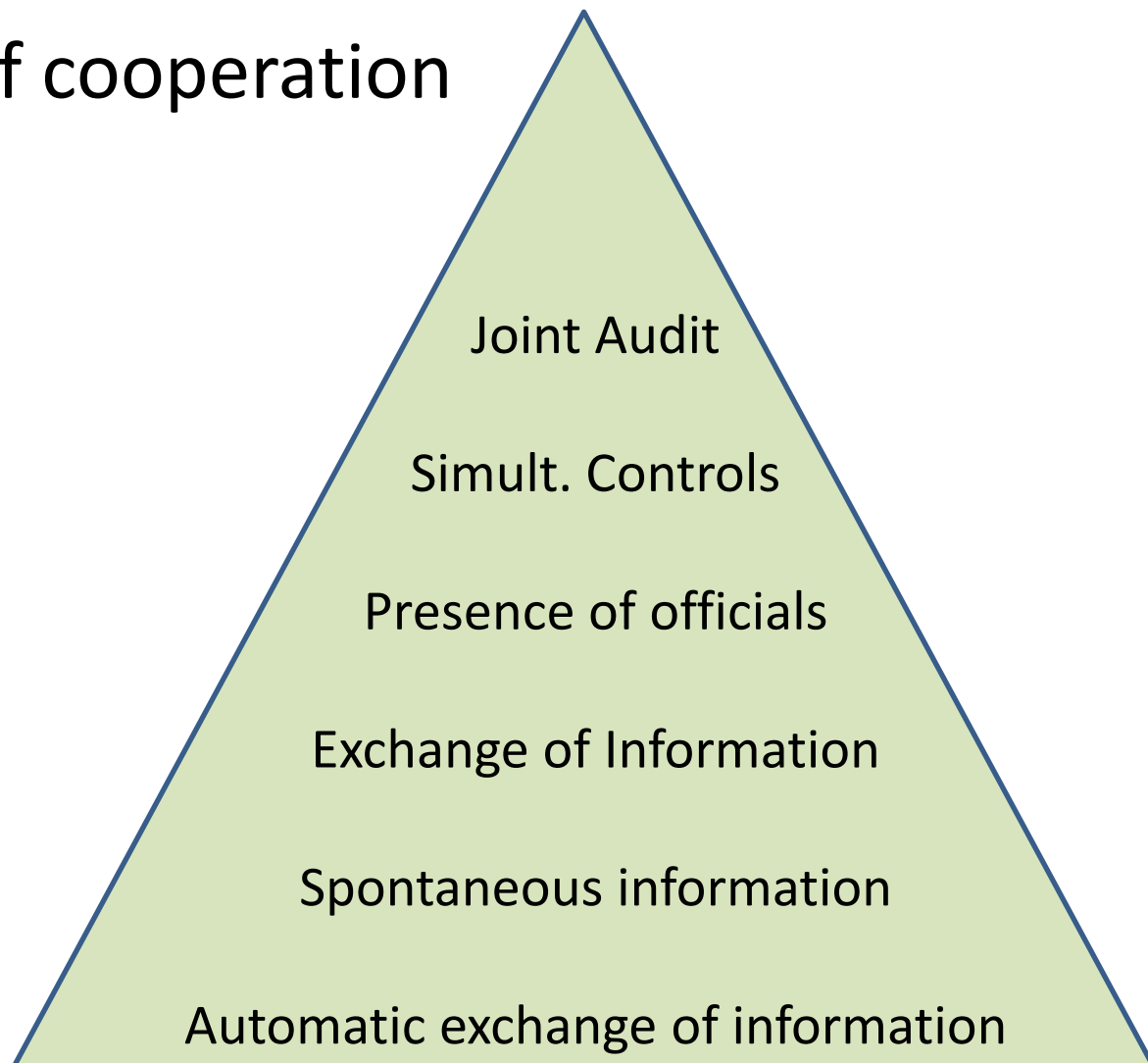
# Benefits



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- Widest scope of cooperation

Exchange of information





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# Benefits



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- Comprehensive knowledge of the case
- More certainty in tax treatment
- Transparency for auditors and taxpayer
- Efficiency, MAP process not necessary or shortened





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# Challenges



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- What happens if a company is not cooperative?
- Single audit team as defined by OECD is (at this moment) legally not possible
- Different strategic objectives of jurisdictions
- Finding suitable cases



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# JA versus SC



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- Simultaneous control: based on common interest, exchange of information resulting from 2 separate national audits
- Joint audit meant: based on a common interest, conduct a “joint audit” resulting in a better view on the facts and therefore a higher chance for a common conclusion
- The choice of the instrument is a decision of the tax administration



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Thanks for your attention