SAFE - Securing the Activity Framework of Enablers

Platform for tax good governance meeting

September 13th, 2022
Background
Background | Problem definition

- Pandora papers and other similar investigations revealed how complex structures involving shell entities in third country have been eroding EU Member States’ tax base
- Some enablers play a key role in designing complex structures that lead to tax evasion and aggressive tax planning
- No definition of “aggressive tax planning”
- Latest Commission initiatives have focused on combatting tax evasion and avoidance: ATAD I & II, DAC6, UNSHELL, AMLD (for tax evasion), but the tax consequences fall on the taxpayer
Enablers are intermediaries that provide a tax advice to taxpayers, that leads to tax evasion or aggressive tax planning as it will be defined in this proposal.

The proposal will include clear and objective criteria for defining the forms of aggressive tax planning that are prohibited.

EU and non-EU intermediaries in case of a link with the EU internal market:

- e.g. enablers who design, market and/or assist in the creation of tax arrangements or schemes in non-EU countries that lead to tax evasion or aggressive tax planning for the EU Member States
Background | State of play

- The Open Public Consultation has been launched and the deadline for responses is the 12th of October.
- Impact assessment is being prepared and policy options are being studied.
- Proposal planned for first half of 2023.
Policy options
Policy options

Three options are being considered on the impact assessment:

• **Option 1:** a prohibition to facilitate tax evasion and aggressive tax planning combined with due diligence procedures

• **Option 2:** a prohibition to facilitate tax evasion and aggressive tax planning combined with due diligence procedures and a requirement to register in the EU

• **Option 3:** a code of conduct
Policy options | Option 1

• This option involves a prohibition on enablers to facilitate tax evasion and aggressive tax planning

• Requirement to carry out a due diligence procedure to check whether the arrangement or scheme they are facilitating leads to tax evasion or aggressive tax planning

• Intermediaries should keep records of the due diligence procedures which should be made available to tax authorities upon request or inspection
Policy options | Option 2

- **Prohibition on enablers** to facilitate tax evasion and aggressive tax planning

- **Due diligence procedures** would also need to be carried out

- **Mandatory registration** for intermediaries which provide advice or services of a tax nature are required to register in a EU Member State. In case of non compliance enablers may be removed from the registry
Policy options | Option 3

• Code of conduct that requires all intermediaries to follow a code of conduct that ensures that they do not facilitate tax evasion or aggressive tax planning
Next steps
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• Analysis of the **public consultation** results after the submission deadline of 12 October

• Further research on policy options and quantitative **impact assessment** of the directive.

• Meetings with relevant internal and external stakeholders.

• Draft proposal planned for 1st half of 2023.
Thank you. We look forward to receiving your input via the public consultation!