

Tax rulings and other measures similar in nature or effect

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The Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect (TAXE 2) adopted the report by Jeppe KOFOED (S&D, DK) and Michael THEURER (ADLE, DE) on tax rulings and other measures similar in nature or effect.

The ‘*Panama Papers*’ and ‘*Lux Leaks*’ revelations have shown the urgent need for the EU and its Member States to fight tax evasion, tax avoidance and aggressive tax planning, and to act for increased cooperation and transparency, particularly by ensuring that corporate taxes are paid where value is created, not only among Member States, but also globally.

Recalling that the scale of tax evasion and avoidance is estimated by the Commission to be up to **EUR 1 trillion a year**, while the OECD estimates the revenue loss at global level to be between 4 % and 10 % of all corporate income tax revenue, the Special Committee suggested that Parliament reiterated the conclusions of its [resolution of 25 November 2015](#) and of its [resolution of 16 December 2015](#).

Follow-up by the Commission and Member States: Members regretted the fact that to date 14 Member States still have no controlled foreign company rules to prevent aggressive tax planning and that 25 have no rules to counter the mismatching tax qualification of a local company by another state. They called on Member States and the Commission to **adopt further legislative proposals on corporate tax avoidance**.

Members considered that the [Directive on Administrative Cooperation](#), having undergone two consecutive ad hoc modifications, on automatic exchange on tax rulings and on Country-by-Country Reporting, **should now be reviewed** in its entirety, particularly but not only in order to reduce and eventually eliminate the current exceptions to the principle of exchange of information. They urged the Commission to come forward with a **proposal for a common corporate consolidated tax base (CCCTB) before the end of 2016**, which would provide a comprehensive solution for dealing with harmful tax practices within the Union.

Blacklist and concrete sanctions for uncooperative jurisdictions and withholding tax: the Commission was asked to come up with a common Union definition and a **blacklist of tax havens**, based on sound, transparent and objective criteria and including implementation of OECD recommendations. An escalation procedure, starting with a constructive **dialogue** with the jurisdiction where shortcomings have been identified, needed to be foreseen prior to the listing.

Members also called for a concrete Union regulatory framework for **sanctions against the blacklisted uncooperative jurisdictions**, including the possibility of reviewing and, in the last resort, suspending free trade agreements, suspending double taxation agreements and prohibiting access to Union funds. Sanctions should also be applied to **companies, banks, and accountancy and law firms and to tax advisers** proven to be involved in illegal, harmful or wrongful activities.

The Commission should prepare binding legislation banning all EU institutions from opening accounts or operating in the jurisdictions included in the common Union list of uncooperative jurisdictions. It should also present a **legislative proposal for a EU-wide withholding tax**, to be operated by the Member States, in order to ensure that profits generated within the Union are taxed at least once before leaving it. For their

parts, Member States should **renegotiate their bilateral tax treaties with third countries** by means of a multilateral instrument, in order to introduce sufficiently robust anti-abuse clauses and thus prevent ‘treaty shopping’.

Patent, knowledge and R&D boxes: Members noted that to date patent, knowledge and R&D boxes have not proven as effective in fostering innovation in the Union as they should have. They are, instead, used by multinationals for profit shifting through aggressive tax planning schemes.

The Commission was asked to put forward **proposals for binding Union legislation** on patent boxes, building on and addressing the weaknesses of the OECD Modified Nexus Approach, in order to prohibit the misuse of patent boxes for tax avoidance purposes.

Banks, tax advisers and intermediaries: Members regretted deeply that some banks, tax advisers, law and accounting firms and other intermediaries have been instrumental and have played a key role in designing aggressive tax planning schemes for their clients, and have also assisted national governments in designing their tax codes and laws, creating a significant conflict of interest. They called on the Commission to come forward with a **Union Code of Conduct for all advising services** to provide for situations of potential conflicts of interest to be clearly disclosed.

Member States were asked to establish **effective, proportionate and dissuasive sanctions, including criminal sanctions, on company managers** involved in tax evasion, as well as the possibility of revoking business licences for professionals and companies proved to be involved in designing, advising on the use of, or utilising illegal tax planning and evasion schemes;

The Commission was asked explore the **feasibility of introducing proportional financial liability for tax advisers** engaged in unlawful tax practices. It was also asked to come forward with a legislative proposal introducing a **mandatory disclosure requirement** for banks, tax advisers and other intermediaries concerning complex structures and special services that are linked to jurisdictions included on the common EU list of tax havens.

Other recommendations: the Special Committee called for, inter alia:

- a proposal from the Commission of a clear legal framework to guarantee the **effective protection of whistle-blowers**, as well as of journalists and other persons connected with the press who aid and facilitate them;
- an improvement in the transparency and effectiveness of the **working methods of the Code of Conduct Group**, given that only a limited number of new documents have been made available for in camera consultation by MEPs, and that the Commission was unable to keep all records of the documents distributed;
- the creation of a new **Union Tax Policy Coherence and Coordination Centre** within the structure of the Commission, to safeguard the proper and coherent functioning of the single market and the implementation of international standards;
- improved cooperation between the Union, the G20, the OECD and the UN to cooperate further to promote **global guidelines** that will also be beneficial to developing countries;
- inclusion in all trade and partnership agreements of **good governance clauses**, including efforts to effectively implement global automatic exchange of information standards;
- a **global assets register** of all assets held by individuals, companies and all entities such as trusts and foundations, to which tax authorities would have full access and which would include appropriate safeguards to protect the confidentiality of the information retained therein;
- a common and comprehensive EU/US approach on the implementation of OECD standards and on **beneficial ownership**;

- encouraging the potential of **digital solutions** for effective tax collection in gathering tax data directly from operations in the sharing economy and in lowering the overall workload of tax authorities in Member States.

Members called on the Council to fully take advantage of the consultation procedure with Parliament, which in particular means waiting for input from Parliament before reaching a political agreement and striving to take on board Parliament's position.