European Commission

TAX TRANSPARENCY FOR INTERMEDIARIES

#FairTaxation

WHAT'S THE PROBLEM?

- Recent scandals show that 'intermediaries' (accountants, advisers, lawyers, banks etc.) play a major part in helping big companies and wealthy individuals escape their fair share of tax in the EU.
- The culture of secrecy behind these tax schemes needs to change. The Commission's proposal for new transparency rules for intermediaries will oblige advisers to notify authorities about cross-border techniques they sell that may help their clients avoid tax.
- This information must be shared with the tax authorities of all the other Member States, so that they can better identify the regulatory weaknesses that allow some companies and individuals to substantially lower their tax bill.
- The new rules cover any institution, company or individual providing tax advice which results in tax avoidance.

HOW WILL THE NEW RULES WORK?

A company which sells cross-border tax schemes bearing tax avoidance hallmarks to its clients **must** report these arrangements to the tax authorities of its home Member State.

If you are a company or individual and you arrange your tax affairs with techniques bearing one or more tax avoidance features, you must report this information.

The Member State's tax authority **exchanges the information** it receives with the tax authorities of all the other Member States.

RESULT

✓	Tax authorities have the information they need to clamp down and stop tax avoidance schemes before these can cause serious damage.
✓	Appropriate penalties will be applied to those intermediaries that fail to report potentially harmful tax planning schemes.

IF YOU ARE DESIGNING, SELLING OR APPLYING A TAX SCHEME THAT CONTAINS ANY OF THESE FEATURES, IT NEEDS TO BE NOTIFIED TO TAX AUTHORITIES

When a fixed percentage of the tax avoided is charged as fee, or when a fee is charged explicitly for tax avoidance services

Tax arrangements sold with a confidentiality clause attached

Providing arrangements which use losses to reduce tax liability

Providing tax avoidance advice that has been standardised and made available to more than one taxpayer

The same asset is subject to depreciation in more than one jurisdiction

Use of linked companies or entities with no substance and with circular transactions taking place between them

Converting income into other types of revenue which are taxed at a lower level

Deductible cross-border transactions based on the residency of the taxpayer

When mismatches occur between EU or national law and the taxation applied in a non-EU country

A payment mentioned in an arrangement is given a full or partial tax exemption in the jurisdiction where it should be taxed

Where the transfers of payment across borders do not represent the true value of the assets bought

Use of tax jurisdictions with no or low corporate tax rates, or which find themselves on the upcoming EU list of non-cooperative tax jurisdictions

Arrangements that re-classify income in categories not subject to automatic exchange of information agreements

Relief from double taxation on the same income in different jurisdictions by more than one taxpayer

Use of jurisdictions with inadequate or weak anti-money laundering rules, including those which help to conceal beneficial ownership information

Use of companies and entities not covered by EU rules or other agreements on automatic exchange of information

Arrangements which include reference to cross-border tax rulings that are not already being reported or exchanged

Arrangements that do not conform to the “arms’ length principle” or to OECD transfer pricing guidelines

15 STEPS TO A FAIRER AND MORE EFFECTIVE TAX ENVIRONMENT IN EUROPE

DATE PROPOSED	ACTION	STATUS
May 2015 and July 2016	Strengthened measures against money laundering and more transparency around opaque company structures	Under discussion in the European Parliament and the Council
October 2015	Transparency rules obliging Member States to share information on cross-border tax rulings	• AGREED • IN FORCE
January 2016	EU tax authorities obliged to exchange information on tax paid by multinationals in their countries (Country by Country Reporting)	• AGREED • IN FORCE
January 2016	Binding rules to effectively tackle tax avoidance loopholes (Anti-Tax Avoidance Directive)	• AGREED • IN FORCE from 1 January 2019
January 2016	Strategy to develop a common EU list of tax havens by the end of 2017	Ongoing
April 2016	Measures requiring multinational companies to publish the tax they pay in the EU (public CbCR)	Under discussion in the European Parliament and the Council
July 2016	Access to anti-money laundering information for tax authorities	• AGREED • IN FORCE from 1 January 2018
2015 - 2016	Historic transparency agreements signed with Switzerland, Andorra, Liechtenstein, San Marino and Monaco	SIGNED
September 2016	Stronger rules to prevent EU funds from being invested in tax havens	Under discussion in the European Parliament and the Council
October 2016	Measures to stop companies exploiting mismatches between the tax systems of Member States and non-EU countries	• AGREED • IN FORCE from 1 January 2019
October 2016	Plans for a fair, growth-friendly and competitive corporate tax system in the EU (CCCTB)	Under discussion in the Council
October 2016	New dispute resolution mechanism to resolve double taxation issues quickly and definitively	• AGREED • IN FORCE from 1 January 2019
2016 - 2017	Review of Member States' Patent Boxes, to ensure they meet fair competition standards	Ongoing
2014 - present	Cases against illegal state aid in taxation, to tackle distortions in competition	Ongoing
June 2017	New transparency rules for intermediaries involved in tax planning	Proposed