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Focus on: European Union

The Commission issues a new Communication to improve governance in taxation



Commissioner for Taxation and Customs László Kovács during the press conference

Last 28 April 2009, the European Commission adopted the Communication "Promoting Good Governance in Tax Matters", which established the actions to be taken by Member States in order to promote good governance in the area of taxation. On the basis of the recent G-20 conclusions with reference to uncooperative tax jurisdictions, the major issues regard the enhancement of transparency, exchange of information and fair tax competition.

The Commission aims at ensuring effective administrative cooperation in the assessment and recovery of taxes within the European Union, as well as improving the functioning of the Savings Directive. To that purpose, Member States should continue working on the elimination of harmful tax practices according to the Code of Conduct for Business Taxation. As far as relations with third countries are concerned, the Commission welcomes a coherent and coordinated approach against jurisdictions that refuse to apply good governance principles.

The Commission invites the Council to include good governance principles in the relevant EU agreements with third countries and to provide for appropriate provisions similar to EC State aid rules and calls upon Member States to start a discussion about possible counter-measures towards uncooperative jurisdictions. In addition, the Commission recommends the conclusion of specific agreements in the tax area containing, where appropriate, provisions on transparency and exchange of information, in order to accelerate the process of implementing commitments to greater transparency and exchange of information in the tax area made by certain jurisdictions, as well as it invites to ensure more coherence between Member States' bilateral tax policies towards third countries and the principles of good governance in the tax area.

GERMANY

Draft bill on combating tax evasion

On 22 April 2009, on the basis of the text drafted by the Ministry of Finance on 13 January 2009, the German Federal Cabinet approved a draft bill for fighting tax evasion. Such a draft bill authorises the Federal Cabinet to issue the necessary statutory ordinances in order to implement the German tax laws with the consent of the Federal Council.

Under the draft, the Federal Cabinet can issue ordinances providing for the denial of the application of certain provisions of German tax laws in cases of foreign business activities, and for the requirements in terms of specific documentation and cooperation that should be met in order to be applicable. Such requirements consist of:

- the appropriateness of stipulated conditions in business relations between related parties;
- the appropriateness of profit allocation between dependent parts of an enterprise;
- the application of documentation and cooperation requirements for business relations of related parties to business relations of unrelated parties; and
- the authorization of the tax authorities by the taxpayer to legally enforce possible claims for disclosure and information against credit institutes in the name of the taxpayer.

The ordinances may provide for:

- the denial of the deductibility of expenses from the domestic tax base if specific documentation and cooperation requirements are not met;

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