Fair Taxation: Commission puts in place first EU counter-measures on listed non-cooperative tax jurisdictions

Guidelines adopted today mark the first step in stopping the transit of EU funds through non-cooperative tax jurisdictions. They will ensure that EU funds do not inadvertently contribute to global tax avoidance.

Today's guidelines should guarantee in particular that EU external development and investment funds cannot be channelled or transited through entities in countries on the EU's common list. The first-ever list was agreed and published in December 2017 and is being updated on a continuous basis.

The new requirements seek to align the EU's objective of tackling tax avoidance at the global level with the rules governing the use of EU funds by International Financial Institutions (IFIs) such as the European Investment Bank (EIB), development financial institutions (DFIs) – including the European Fund for Sustainable Development (EFSD) – and other eligible counterparties.

Pierre **Moscovici**, Commissioner for Economic and Financial Affairs, Taxation and Customs Union said: "*The EU's blacklist of tax havens is a living document and more countries will be added if they don't live up to the commitments they have made to improve their tax systems. The Commission will not allow EU funds to contribute to global tax avoidance. These EU level countermeasures should act as a wake-up call for those jurisdictions as they show the EU is serious about tackling tax avoidance on a global scale.*"

Today's guidelines set out the applicable legislation on how EU funds should be treated when it comes to tax avoidance and non-cooperative jurisdictions. They provide information on how its partners should assess projects that involve entities in jurisdictions listed by the EU as non-cooperative for tax purposes. This assessment includes a series of checks that should pinpoint a risk of tax avoidance with a business entity. For example, before channelling funding through an entity, it should be established that there are sound business reasons for how a project is structured that do not take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing a tax bill.

The new guidelines will ensure that the rules are interpreted and applied consistently. In order to safeguard the EU's development policy, an exception is made for direct financing, where a project is physically implemented in a listed non-cooperative tax jurisdiction and is not linked to money-laundering, terrorism financing, tax fraud or tax evasion.

The Commission also calls on international financial institutions and other bodies involved in the management of the EU budget to review their internal policies on non-cooperative jurisdictions in the course of 2018. This is to ensure that these policies reflect the EU's long-standing efforts to tackle tax avoidance, both within the Union and beyond.

Background

Following the Commission's Communication on an External strategy for Effective Taxation in January 2016, four legal acts concerning the use of EU funds by implementing partners currently contain, or will contain in the near future, the requirement that EU funds do not support projects contributing to tax avoidance. Implementing partners, such as International Financial Institutions (IFIs), development financial institutions (DFIs), or other types of eligible counterparties involved in the indirect management of the EU budget, are required to comply with these requirements when using EU funds in their investment operations. These provide a robust framework to ensure that EU funding is routed according to good governance standards in the field of taxation; particularly when coupled with existing prohibitions on the use of non-cooperative jurisdictions and the publication of the EU common list of non-cooperative jurisdictions for tax purposes.

This Communication aims to assist these organisations in ensuring compliance with the new legal provisions while also providing broader recommendations on how to assess tax avoidance issues.

In addition to the EU provisions, the Commission has encouraged Member States to agree on coordinated sanctions to apply at national level against the listed jurisdictions. Member States have already agreed on a set of countermeasures which they can choose to apply against the listed countries, including increased monitoring and audits, withholding taxes, special documentation requirements and anti-abuse provisions. The Commission will support Member States' work to develop a more binding and definitive approach to sanctions for the EU list in 2018.

For More Information

DG ECFIN Web Page and legal texts

EU common list of non-cooperative jurisdictions for tax purposes

Communication on an External strategy for Effective Taxation