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Reaching a level playing field for taxation across Europe

*Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort*

Debate on Taxation in European Parliament Plenary

Strasbourg, 25 October 2011

Chair, Honourable Members,

I would like to thank the European Parliament, and in particular Sven Giegold and Sharon Bowles for the report on the proposal to recast the so-called Parent-Subsidiary taxation Directive and the oral question.

The report is a plea in favour of a minimum level of rates in the Member States. But it challenges their competences in this matter.

Requiring the suggested minimum rate on the subsidiary distributing its profits would result in the exclusion from the directive scope of companies established in several Member States with rates below the threshold [*e.g. Germany, Latvia, Lithuania, Bulgaria, Romania, Ireland and Cyprus*].

This approach would lead to a partial integration of the national markets and a situation potentially challenging the Treaty freedom of establishment.

In addition, pursuant to the Inter-institutional Agreement on the recast of legal acts, the introduction of such substantive amendments to unchanged provisions in the Commission's proposal requires a different legislative procedure.

In this case, the Commission would have to follow the procedure for amending a Directive. That requires a much more detailed political and technical assessment than the recast.

I understand the concern about aggressive tax planning. But the approach contained in the report does not ensure a level playing field, is not sufficiently targeted towards abusive practices and thus not appropriate in this case.

Next year, I plan to table an initiative addressing these issues, outlining possible approaches to tackle tax circumvention, in particular in case of double non taxation.

Chair, Honourable Members,

Let me now reply to the questions related to the German-Swiss and UK-Swiss savings taxation agreements.

Firstly, let me first emphasize that we have made, at that stage, only an initial comparison of both agreements with the EU-Swiss agreement. However, I can already share with you some elements:

As regards the agreement with Germany, two aspects emerge at this stage of the analysis:

First, the level of the rates. The withholding tax rate of 26.375% contained in the German-Swiss agreement differs from the rate of 35% of withholding tax fixed in the EU-Swiss agreement. This result is achieved through a refund of withholding tax.

Second, the nature of the withholding tax. While it is in the nature of an advance payment under the EU-Swiss agreement, the German-Swiss withholding tax appears to be final. It is likely to be less efficient when it comes to deter tax evasion.

The agreement between the United Kingdom and Switzerland was made public only on 6 October. Our first assessment indicates that it generally provides for higher rates of withholding tax than the EU-Swiss agreement. Moreover, no automatic refund appears to apply. However, we are still examining the details.

As to your second question, the proposed amendments to the directive are still discussed in the Council. Germany and the UK are part of these discussions and are among strong supporters of the enhancement of the directive.

The Commission has already asked the Council for a mandate to negotiate amendments to the EU savings agreement with Switzerland to extend its scope in line with the proposed developments in the Directive.

The Commission favours an ambitious agreement with Switzerland. I see no good reasons to further delay the adoption of the mandate. This position has been broadly supported by the Member States. It is important, however, that this ambition is not undermined by bilateral agreements. The recent developments, therefore, reinforce the importance of a common EU approach towards Switzerland and other third countries.

Your third question refers to the respective competence of the Union and the Member States in the area concerned.

Member States are free to enter into international agreements with non-EU countries. But they must respect EU law and its principles governing exclusive EU competence.

Taking into account their wide scope, the bilateral agreements may also cover aspects already covered by the EU Savings Directive and/or the EU-Swiss agreement. Insofar as the bilateral agreements may prove to cover areas of exclusive EU competence, the Commission would take this matter very seriously. It would not hesitate to take the corrective steps if necessary.

In general, Member States must ensure that any bilateral negotiations they foresee or conduct do not cover aspects which are a matter of exclusive EU competence.

And likewise in particular, in the savings taxation regime, Member States must not include into such agreements any area covered by the EU savings directive or the EU savings agreements with third countries. Unilateral action taken by Member

States in this field should not affect future action on the part of the European Union that could consist in the amendment of one of these instruments.

In this specific case, the Commission has not been associated to the negotiations. All along the process, Germany and UK have consistently reaffirmed their attachment to the EU common rules and objectives.

As a general principle, the Commission urges Member States to take the necessary precautions in the matter. In case of any doubt, they should consult with the Commission at the earliest possible stage.

Finally, as regards your question on how far the German-Swiss agreement potentially curbs the development of automatic exchange of information, I can assure you of the Commission's continued commitment to automatic exchange of information. We will continue to strive to apply that standard across the EU. And we will continue to push for the highest possible enhanced standards of transparency and exchange of information with third countries.

I thank you for your attention.

Chair, Honourable Members,

I want to thank you for the views you expressed during the debate.

The Commission is concerned with the situation where the lack of international coordination permits abusive practices.

It leads to unfair and inefficient taxation. My services are already looking into these questions.

As I mentioned earlier today, next year, I plan to table an initiative addressing these issues. Although I share the concerns expressed in the report by Sven Giegold, I consider more appropriate to address them via the planned initiative. I welcome your continued strong support in this area.

As regards bilateral savings taxation agreements, I understand Member States' interests in finding solutions to consolidate their budgets. Concluding bilateral agreements in order to tax hidden savings income in third countries might appear very attractive.

However, the competence of the Union and the Member States in this area needs to be respected.

I am also convinced that only a coordinated EU approach towards third countries will allow Member States, big and small, reaching a level playing field in the taxation of savings.

I therefore repeat President Barroso's call to rapidly reach an unanimous agreement on the revision of the Savings taxation Directive and on the mandate to negotiate tax agreements for the whole European Union.

I thank you again for your strong support and constructive approach in this area.

Thank you for your attention.