EUROPEAN COMMISSION

Brussels, 2.8.2016
C(2016) 5149 final

Dear President,

The Commission would like to thank the Riksdag for its Reasoned Opinion on the Commission proposal amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches {COM(2016) 198 final}.

The international nature of tax planning requires the need for multilateral and coordinated actions by countries hosting multinational firms. One of these actions, supported by the G20, consists of further transparency towards tax authorities. The global issue of corporate tax avoidance is also relevant within the Single Market. The Single Market has provided extensive opportunities for businesses to locate their activities according to their needs. This freedom may, to a certain extent, have given rise to the exploitation of legislative loopholes that require counter-measures.

The Commission welcomes the Riksdag's broad support for the aims of the proposal but notes its doubts relating mainly to the proposal's compliance with the principles of subsidiarity and proportionality. The Commission is pleased to have this opportunity to provide a number of clarifications regarding its proposal and trusts that these will allay the Riksdag's concerns.

Measures on corporate transparency on the payment of taxes would have no direct effect on the taxation of companies. For this reason, all the measures on corporate tax transparency included in the Commission proposal cannot be regarded as relating to fiscal provisions affecting the establishment or functioning of the internal market in the sense of Article 115 of the Treaty on the Functioning of the European Union.

The Commission believes that, beyond the remarkable work of tax authorities in the EU, further public scrutiny on a specific country-by-country reporting to be published by companies would foster further corporate responsibility in the internal market for paying taxes where profits are made. This may also contribute to fairer tax competition between the Member States.

Mr Urban AHLIN
Speaker of the Riksdag
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In the impact assessment accompanying the proposal, the Commission thoroughly considered the principles of subsidiarity and proportionality and concluded that action at EU level is justified on both accounts. In terms of subsidiarity, the Commission concluded that EU action is justified in order to address the cross-border nature of numerous tax planning structures and transfer pricing arrangements which allow multinational enterprises to easily relocate their tax base from one jurisdiction to another. In terms of proportionality, the information to be disclosed would be limited to what is strictly necessary to enable scrutiny by EU citizens.

The Commission believes that third country jurisdictions which do not respect international tax good governance standards create particular opportunities for tax avoidance and tax evasion. If multinational firms are active in such jurisdictions, special transparency requirements should apply.

The Commission has also paid utmost attention to ensuring that nothing in the proposal would undermine the global implementation of the OECD Action Plan on Base Erosion and Profit Shifting, in particular Action 13[1]. As of the end of June 2016 a total of 44 countries have signed the Multilateral Competent Authority Agreement for the automatic exchange of Country-by-Country reports.

The Commission hopes that these clarifications address the issues raised by the Riksdag and looks forward to continuing the political dialogue in the future.

Yours faithfully,

Věrá Jourová
Member of the Commission

[1] As part of the OECD/G20 plan to fight Base Erosion and Profit Shifting, the OECD published in October 2015 Action 13 which contains final Guidance on Transfer Pricing Documentation and Country-by-Country Reporting. Specifically, this Action requires the preparation and filing of a Country-by-Country Report with the relevant tax authorities as part of a multinational company's documentation on transfer pricing. The plan also includes the exchange of such reporting between tax authorities that have joined the plan.