



# 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 may result in tax avoidance.

## HOW WILL THE NEW RULES WORK?



A company which sells cross-border tax schemes bearing at least one of the 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 of the hallmarks, 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

Advice on tax planning that has been standardised and made available to more than one taxpayer without a need for customisation

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

Converting income or capital into products or payments not subject to automatic information exchange

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

An asset is subject to the same depreciation in more than one jurisdiction

Providing arrangements which use losses to reduce tax liability under certain conditions

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

Use of tax jurisdictions with no corporate tax or zero or almost zero rates, or included in the EU list of non-cooperative third-country jurisdictions

Arrangements that involve the use of an account, product or investment that is designed to undermine the rules on the automatic exchange of information

In transfers of assets across borders, there is a material difference in the amount treated as payable for these assets in the jurisdictions involved

Arrangements involving the transfer of hard-to-value intangible assets

Relief from double taxation on the same income or capital in more than one jurisdiction

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

The transfer of financial accounts or assets or the use of jurisdictions that are not bound by the automatic exchange of information with the state of the taxpayer

Arrangements that involve the unilateral use of safe harbours

## 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	In application
January 2016	EU tax authorities obliged to exchange information on tax paid by multinationals in their countries (Country by Country Reporting)	In application
January 2016	Binding rules to effectively tackle tax avoidance loopholes (Anti-Tax Avoidance Directive)	In application 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	In application since 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	In application 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	In application 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	Agreed