EUROPEAN COMMISSION
DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION

Direct taxation, Tax Coordination, Economic Analysis and Evaluation
Direct Tax Policy & Cooperation

Brussels, 10/03/2022
TAXUD.D.2
taxud.d.2(2022)1966755

MINUTES
WORKING GROUP ON ADMINISTRATIVE COOPERATION IN THE FIELD OF DIRECT TAXATION (WG ACDT)
51ST MEETING – VIRTUAL MEETING, 3RD MARCH 2022

1. APPROVAL OF THE AGENDA

The agenda was adopted.

2. NATURE OF THE MEETING

The meeting was virtual and non-public.

3. LIST OF POINTS DISCUSSED

(1) Introduction

The Chair welcomed the experts. No conflict of interest was reported.

The meeting started with a few words of introduction and housekeeping.

(2) Use of information under DAC

The commission services recalled the conclusions of the report on AEOI by the European Court of auditors. The commission services have been asked to ensure a better framework for monitoring the performance and achievements of the AEOI, by the end of 2022. This has been echoed by the European Parliament in June 2021, in a report that was adopted in September.

The commission services provided an overview of the planned work of the Expert Team on Data Analytics, noting that this Expert Team was established in January 2022, is chaired by Austria and consists of representatives from 9 Member States. Two key objectives of this Expert Team are (i) Identify best practice data analysis techniques and technologies that can be used to better prevent, detect and combat tax evasion and fraud across Member States; and (ii) Develop a data analytics tool that can be used on direct taxation data, particularly AEOI data, that supports Member States, to better detect potential tax evasion and fraud across Member States. Those objectives are therefore designed to support Member States in improving the use of AEOI information exchanged under the DAC. To ensure that all Member States derive the maximum benefit from the work of the Expert Team, the commission services advised that the Expert Team will work closely with the SG AEOI.

Furthermore, the commission services, on the basis of the Staff Working Document that was circulated to Member States in advance of the meeting, sought the views of Member States with respect to the potential for additional Fiscalis work to expand the use of DAC data and sharing of best practices. In particular, the Commission services requested the views of Member States with respect to the following potential areas of work: (i) **Development of a risk assessment guide for Member States for the use of DAC data:** This would involve building upon the existing work carried out by FPG045 and the future work to be carried out by the Expert Team on data analytics through a collaborative initiative involving the Commission and a sub-Group of the ACDT; (ii) **Development of methodologies and tools to be used for measuring DAC benefits:** This would potentially involve a new Fiscalis Group that would build upon the existing work carried out to date through Fiscalis and also (iii) **establish KPI's for DAC6 and DAC7.**

Member States requested that the Commission services further clarify the link between these proposals and the work already carried out and intended to be carried out in related areas concerning the use of information under the DAC. The Commission will clarify this link in the next meeting of the WG ACDT.

Considering the calls from the European Court of Auditors and other stakeholders for improving the framework to measure the benefits of the AEOI, the Commission services proposed new methods based on common criteria to evaluate the benefits of DAC1, DAC2, DAC3 and DAC4.

The method presented for DAC1 and DAC2 is a quantitative-based measurement of the result of tax compliance activities and ex-post activities. This measurement should be used to assess whether taxpayers are becoming more compliant in declaring income subject to DAC1 and DAC2 exchanges, and whether information received under DAC1 or DAC2 has been used to correct the tax declaration submitted by the taxpayer. In the absence of monetary values, Member States may also provide information on the number of taxpayers involved in tax compliance and tax assessment activities.

Concerning the assessment of DAC3 and DAC4 benefits, the nature of information exchanged makes the measurement of additional tax due specifically to DAC more complex. The use of these data for risk assessment purposes is combined with other procedures or actions carried out by the tax authorities, which makes it more difficult to single out the benefits linked to DAC. In this regard, the Commission services proposed a method based on the number of DAC3 and DAC4 exchanges used for tax purposes.

For the measurement of DAC data, Member States may avail of estimates and tracking systems that are currently available to them. Member States can also provide information on benefits of the use of DAC, under certain circumstances, for customs and duties, or social security taxes.

(3) Presentation of latest DAC3 statistics

COMM presented the DAC3 statistics as at 10.01.2022. The number of open advance pricing arrangements (‘APA’)/advance tax rulings (‘ATR’) has been decreasing since 2019 and now stands at 10.786. In terms of type of APA/ATR the largest category is ‘Other’, followed by ‘Unilateral APA or TP Ruling’. A modification to the DAC3 central depository is planned for 2022 which will allow further analysis of the type of APA/ATR’s in the ‘Other’ category to help assess tax risk.

Member States did not have any comments on the statistics presented.

(4) Summary information sheet under DAC3

Member States have indicated in previous years that the Summary information sheet in the DAC3 central depository does not allow Member States to assess potential tax risk. Accordingly, under an amendment to the DAC, Member States are now required to provide a summary which can assist MS in assessing the potential tax risk. The Commission proposed how this may be taken forward, based on the work done at international level through IOTA[1], and also using specific EU requirements like ATAD1/2 and the Code of Conduct on Business Taxation, to propose indicators that could be used to assess a potential tax risk. The Commission proposed that this work could be taken forward in a sub-group of the WG ACDT and asked for volunteers. Ideally the sub-group should consist of Member States which submit a high number of APA’s/ATR’s, Member States active in the IOTA sub-group, and any other Member States that have experience with DAC3 risk assessment guidelines at national level.

(5) Work under Fiscalis programme

FPG/119 on KPI performance measurements: the draft final report is expected to be issued shortly to members of the FPG.

The Commission informed the Member States about the state of play of the implementation of the FPG/124 final report recommendations: by the end of Q2/2022 the contractor shall deliver the final version of the XML schemas (included the supporting documentation), the updated DAC1/DAC2 Specifications and a study on alternatives on the implementation of the statistics reporting process.

(6) The use of TIN – Issues experienced by administrations

Ahead of the meeting, TAXUD provided delegates with a questionnaire on the availability of TIN in the exchanges relating to DAC1 as well as all to other DACs. During the meeting, TAXUD presented the highlights of the answers received from Member States.

22 Member States answered to the questionnaire and the other Member States were asked to send in their answers after the meeting in order for TAXUD to have a full picture of the availability of TIN in the EU.

[1] Effective Treatment of Tax Rulings – Sub-group 1 of the IOTA Forum on Implementation of Measures to Counter Base Erosion and Profit Shifting, 2021.

The purpose of the questionnaire and the discussion with the Member States was to understand if there is a need to improve the quality and the frequency of providing TIN information in the automatic exchange of information with the aim to increase the matching results.

It was noted that a solution could be to automate TIN on the WEB and to require TIN as a mandatory information in the automatic exchange of information. The eIDAS initiative was also mentioned as a potential solution.

(7) AOB

The Commission services informed the Member States about the current DAC2 Max message size indicated in the Technical Specifications and the need for adapting it to the volume of data currently exchanged at national and EU level. COM proposed to discuss the technical details at the next SG AEOI meetings (technical constraints that may exist at national level should be considered as well as the availability of CCN2 network services) and submit the agreement reached to the ACDT for final approval.

With regard to the situation in Ukraine, Commission services informed the Member States about the state-of-play on a possible reconsideration of all administrative cooperation in direct taxation with Russia.

Enclosure: attendance list

ATTENDANCE LIST
WG ACDT meeting n°51 on 3 March 2022

BELGIUM
Federal Public Service of Finance

BULGARIA
National Revenue Agency

CZECH REPUBLIC
Ministry of Finance
General Financial Directorate

DENMARK
Skattestyrelsen – the Tax Agency

GERMANY
Federal Central Tax Office
Lower Saxony Regional Tax Directorate

IRELAND
Revenue Commissioners

ESTONIA
Estonian Tax and Customs Board

GREECE
Independent Authority for Public Revenue (IAPR)

SPAIN
AEAT

FRANCE
DGFIP

CROATIA
Ministry of Finance
Tax Administration

ITALY
Agenzia delle Entrate
Ministero dell'Economia e delle Finanze

CYPRUS
Ministry of Finance Tax Department

LATVIA
State Revenue Service

LITHUANIA
State Tax Inspectorate under the Ministry of Finance

LUXEMBOURG
Administration des Contributions Directes
Ministry of Finance

HUNGARY
National Tax and Customs Administration

MALTA
Ministry for Finance (Commissioner for Revenue)

The NETHERLANDS
Ministry of Finance
Tax Administration

AUSTRIA
Ministry of Finance
National Revenue Administration

POLAND
Ministry of Finance
National Revenue Administration

PORTUGAL
Tax and Customs Authority

ROMANIA
National Agency for Tax Administration

SLOVENIA
Financial Administration

SLOVAK REPUBLIC
Financial Directorate

FINLAND
Tax Administration

SWEDEN
Tax Agency