

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect (TAXE) meeting, 16 April 2015, European Parliament, Brussels

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

Introduction

Mister Chairman, distinguished members of the EP, thank you for inviting the federation of European accountants to this important hearing.

In the interest of time, I will spare you the description of my organisation but I would just like to outline that FEE represents professional accountants from all sectors, working in accountancy firms of all sizes – large and small – but also in business and in the public sector at all levels of government.

The accountancy profession is committed to help design a tax system fit for the 21 century.

FEE is still working with its 47 member bodies, therefore at this stage some of the views I will express are my own.

Our international tax system is outdated.

This is not new. What is new is that the financial crisis has put society and public finance under extreme strain; and public opinion exercises unprecedented pressure on lawmakers and business.

The change in mindset and practice that we see taking place was unbelievable just 3 years ago.

However we also have to be careful because it would be unfair and inappropriate to judge yesterday's practices in the light of today's changed values.

Before offering a few thoughts on how we can solve problems, I would like to make a few remarks on the need for simplification and transparency.

Simplification

First of all simplification of terminology would be most helpful.

There is great confusion between the terms used which hinders an already difficult debate.

Let me say without ambiguity that the accountancy profession strongly condemns tax fraud and evasion and is committed to help fighting them.

As has been said tax avoidance is technically legal. It is the result of tax planning.

The purpose of tax planning is to adopt the most cost effective and sustainable solution for a taxpayer considering all relevant circumstances and legal requirements.

The taxpayer must pay what the law requires – nothing more.

It is interesting to note that in many countries, Courts of Law hold tax advisers liable for advising their clients on the most effective tax planning options available to them.

The new term of aggressive tax planning tries to distinguish between tax planning that is perceived as legitimate and tax planning that is seen as illegitimate, while both remain formally legal.

I think that any tax arrangement must have some economic substance and commercial purpose other than the avoidance of tax and its outcome should be consistent with the intentions of the relevant lawmakers.

However it is an illusion to believe that tax law is clear and easy to apply in the real world.

Secondly: administrative procedures should be simplified.

I will just give one example as trivial as it may sound: member states are not even capable of agreeing on a standard VAT return at European level and continue arguing about a commission proposal since 2013.

The potential of technology is still underexploited for analysis and control purposes by tax administrations.

And in many countries the accountancy profession is helping tax administrations implement new technologies and modernise processes.

It is even more important to simplify the substance of the law.

Tax law is complex; even at national level. It did not evolve following a coherent vision but through a succession of often opportunistic piecemeal measures and quick fixes.

As a result, most national tax systems are full of incentives, disincentives, inconsistencies and grey zones. They are also usually unstable and therefore impede investment while trying to attract it.

Things are even worse from an international perspective. The global economy is open and Europe is seen as a very high tax continent. The EU is not a fortress but still taxation remains a sovereign competence of the member states.

Complexity is one of the sources of loopholes, risks and unintended consequences.

These issues are not made up by taxpayers or tax advisors but by national lawmakers and tax administrations.

The Common Consolidated Corporate Tax Base has been seen by many as a helpful simplification. It gathered significant support in the business community.

The EC has been working on a CCCTB for almost 15 years now but still we don't see much progress in Council.

Transparency

Against all this complexity, tax rulings often provide certainty and predictability, but also transparency as they imply the disclosure of a lot of information to tax authorities.

Therefore tax rulings should not be discouraged as the cost for the economy would be high: less cooperation between administrations and taxpayers, more disputes, more uncertainty.

In a single market, it seems logical that tax administrations share this information. By the way, they already had this possibility in the past – but they have not used it.

The lack of transparency fuels suspicion and mistrust. However transparency has limitations too.

The information disclosed needs to be relevant and meaningful. Information overload will not help tax administrations address aggressive tax planning and will not help citizens assess whether the public interest is well served.

For example I believe there may be such a risk with county-by-country reporting. The information to be reported may prove to be meaningless without an understanding of the underlying facts and legal regime. Again, having a common tax base would help.

It is also important to avoid confusing the public with multiple and divergent disclosures requirements.

Just like new policy measures are pointless if they cannot be enforced, information will be useless if there is a lack of human resources as explained by the Unions, but it is also about having proper technology capabilities and skills in public administrations clearly supported by real political will.

However transparency is not a magic bullet and will not solve all problems.

Problem solving

We need a thorough rethink of tax policy. First it is important to clearly understand how we got to where we are; otherwise the same causes will produce the same effects.

Second we need to recognize the new realities.

Public opinion has legitimately entered the debate and will not go away.

Today, in networked, globally collaborative, and digitalized economies where size and borders matter less and less and intangibles more and more, value creation is much more difficult to link to a particular player and territory.

Competition for foreign investment, resources and talent will continue if not increase and countries will continue creating tax incentives and thus encourage tax planning.

In business, competition is good but it needs some regulation to protect free markets and preserve the public interest: similarly Member states may have to agree on new parameters for tax competition.

Even if it is a sovereignty and political issue, tax legislation has to enter the era of better regulation. We need objective and independent impact assessment, including of amendments made by Parliament and Council, at European level.

But I believe we should also look beyond that: today tax policy cannot ignore the challenges of environmental and social sustainability.

If these problems are not addressed, people will lose trust in both political institutions and business.

We all have a responsibility and a role to play to solve our problem.

“We” is all the stakeholders with a direct involvement in tax matters – including taxpayers and tax accountants – but the primary responsibility rests with lawmakers: they only can change the rules. No one else.

Saying this is not a way of avoiding responsibility: we at FEE are convinced that tax policy is a matter for society as a whole. And we are prepared to play our part.

Thank you.