European Parliament

'Paradise papers' in a nutshell

The latest leak of tax-related documents, known as the 'Paradise papers', was made public on 5 November 2017. The results of a joint investigation are now being released in instalments. The papers provide additional evidence on the involvement of offshore law firms in tax optimisation practices.

What are the Paradise papers?

The information comes from the articles published daily since 5 November 2017.

Like the Panama papers, the Paradise papers are the result of a leak to the *Süddeutsche Zeitung* and a joint investigation by the International Consortium of Investigative Journalists ICIJ and its 95 media partners. The files relate mainly to an offshore law firm (Appleby), and a smaller trust company (Asiaciti) and company registries in 19 secrecy jurisdictions (which have no, or limited, practice of sharing information with other tax jurisdictions). They disclose numerous loan agreements, financial statements, emails, trust deeds and other paperwork spanning nearly 50 years.

Beyond the sometimes colourful headlines describing either individual or more general schemes, the leak features many of the same names as previous revelations related to global taxation issues. The locations and havens in the Paradise papers display a similar geography to that of previous leaks. The investigation explores the tax optimisation schemes that were set up using the advice and assistance of services providers like Appleby (intermediaries). They relate to the offshore (i.e. outside the home tax jurisdiction) activities of rich people, high net worth individuals (HNWI) and ultra HNWI (UHNWI), and multinational enterprises which shift their earnings and funds or their purchases through different tax jurisdictions to obtain a substantially reduced or zero liability. The amount of lost tax resources is difficult to assess, but is substantial.

Which tax problems do they highlight?

The underlying challenge is that, on one hand, globalisation and digitalisation enable money to move across borders with relative ease, but on the other hand there is no matching dimension to tax jurisdictions. The situations covered relate to tax optimisation, aggressive tax planning, tax avoidance (which is *a priori* legal, but may involve some risk-taking, contrary to tax evasion and fraud, which are illegal).

In addition, tax competition and the limited set of cooperation tools provided by international law create loopholes and inconsistencies, which tax optimisation uses. With the support of intermediaries and facilitators, tax optimisation schemes are adapted to stay ahead of regulatory provisions, namely by setting the tax residence accordingly. The offshore advice is provided by firms specialised in helping clients to move to low-tax jurisdictions, like Appleby in the present case.

Another element enabling such schemes to work is the opacity provided by certain structures (such as trusts and similar arrangements). This shields the ultimate beneficial owner (UBO) and makes it impossible to assign assets to taxpayers, allowing the UBO not to have these assets taken into account in their tax base in the jurisdiction in which their tax residence is located.

Reactions to the leaked documents

Globally, voices have condemned these practices, which are thought to be the tip of the iceberg within a regulatory context that has not yet implemented the latest changes, as the OECD Secretary-General pointed out. Calls for further action, namely for the adoption of a European tax haven list and the review of VAT loopholes that appear in the leak and for greater transparency, were issued after the first wave of revelations. Some Member States have already indicated that they will further look into the information.

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