

Speaking TAX 3: Relation with CH in tax matters

1. Administrative cooperation

2. Harmful tax competition

SPEAKINGS

Honourable Members,

I am very happy to be here today to discuss the EU's relation with Switzerland in tax matters with you.

In the area of direct taxation the EU has special relations with CH in two fields: (1) administrative cooperation and (2) harmful tax competition. As the focus of this hearing is on the work of the Code of Conduct Group, I will mention the administrative cooperation only shortly.

(1)Administrative Cooperation

- On 27 May 2015, a Protocol concerning the exchange of information among EU MS and CH tax authorities has been signed and entered into effect as of 1 January 2017.
- EU and CH Financial Institutions have activated, since 1 January 2017, the due diligence procedures for collecting a broad range of financial information on accounts directly or indirectly held by EU and CH residents.
- The information so collected is due to be automatically exchanged between the country of collection and the country of residence of the beneficial owners on September of the year following each year of collection.
- The first such exchanges have taken place in September 2018, so last month.
- The agreement is in conformity with the Global Standard for Automatic Exchange of Financial Account Information, as

developed by the OECD and endorsed by the G20 (the so-called Common Reporting Standard, CRS).

- The Protocol also allows broad exchange of information upon request which is foreseeably relevant for carrying out the agreement or the enforcement of the domestic laws concerning taxes of every kind of Switzerland and the Member States.

(2) Harmful tax competition

- That brings me to the work of the Code of Conduct Group.
- The Code of Conduct on business taxation is a legally non-binding instrument to fight harmful tax competition. It concerns mainly EU Member States. However, there is also a clause to extend the principles of the COC to EU dependent and associated territories and to third countries.
- In 2010 the COC Group decided to open a dialogue on the principles of the Code with the EU neighbour countries LIE and Switzerland. After several years of dialogue the Member States and Switzerland agreed on a joint statement in October 2014.
- According to the joint statement:
 - Switzerland has to abolish five harmful tax regimes and abstain from introducing new harmful replacement regimes.
 - Once Switzerland has conformed to the terms of the joint statement, Member States shall stop applying defensive measures in relation to the abolished regimes.
- The fulfilment of the terms of the joint statement would create a more level playing field in the area of taxation and mitigate the negative effects of harmful tax competition.

- On 17 June 2016, the Swiss parliament approved the Corporate Tax Reform Act. The said tax reform would have removed the regimes covered by the Joint statement.
- However, in a referendum held on 12 February 2017 the Swiss people rejected the Corporate Tax Reform Act. As a result the whole act including the provisions removing the identified tax regimes needed to be replaced by a new proposal from the Swiss government.
- In bilateral contacts after the referendum of 12 February the Swiss authorities have committed to including the removal of the 5 regimes in a new legislative proposal. A letter sent to the Chair of the Code of Conduct confirmed this commitment.
- Meanwhile the ECOFIN Council decided in 2016 that the EU would **establish a list of non-cooperative tax jurisdictions** by the end of 2017.
- The Code of Conduct Group was tasked to carry out the screening and assessment of the 92 selected third country jurisdictions. Switzerland was one of those jurisdictions and was therefore included in the exercise.
- However, as Switzerland had already committed in the Joint Statement to abolish the 5 measures they were not asked to commit for a second time.
- The ECOFIN Council therefore grouped Switzerland among those third country jurisdictions that made appropriate commitments (Annex II of the ECOFIN conclusions of 5 December) and that would not be on the list of non-cooperative jurisdictions provided that they delivered on their commitments.

- In 2017, the Swiss Government presented a new proposal to the Swiss Parliament which will have the same result as the former one in respect of the abolition of the five harmful regimes. It seems that the **Parliament has adopted the new law last Friday (28. September).**
- The current situation is that the Commission is in close contact with the Swiss administration. We expect to be formally informed about the new legislation and to get all relevant details, in order to examine it.
- We will provide the Code of Conduct Group with such information to enable it to take an informed decision on whether Switzerland has fulfilled its commitment and will not be listed as a non-cooperative tax jurisdiction.
- Thank you very much for your attention. I am available to answer your questions related to these issues.