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FOUNDATION OF INTERNATIONAL TAXATION

DECEMBER 3 - 5, 2015

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- - **Transparency and Exchange of Information will they suffice to curb tax avoidance?**
- **Paradigm change since last global financial crisis (2009)**
- **From Exchange of information on request to automatic exchange**
 - **OECD/GF driven Initiative(2009)**
 - **Amended version of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (2011) – extension to non-OECD Countries.**
 - **Common Reporting Standard (2014)**
 - **OECD (BEPS) (2013)**
 - **USA driven Initiative(FATCA) (2011)**
 - **EU Initiative platform on Good Tax Governance (2012)**

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OECD INITIATIVES

- **Global Forum/ Peer Reviews (2009)**
- **Since 2009 – 124 peer review reports covering over 100 jurisdictions have been completed**
- **End of Phase I and Phase II reviews**
- **Start 2016 – Phase III**
- **What is Phase III – Peer Review?**
- **OECD claiming to be the only authoritative body on “tax transparency” rating exercise!**

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- What is Phase III?
- In September 2013 – G20 leader made the following statement (inter alia) “We encourage the GF to complete the allocation of comprehensive country ratings regarding the effective implementation of information exchange upon request and ensure that the implementation of the standards are monitored on a continuous basis”.
- G – 20 leaders (in St. Petersburg, Russia) enclosed the new global standard on automatic exchange of information

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AEOI GROUP

- **Propose the terms of reference and methodology for monitoring implementation of AEOI on a going forward basis.**
- **Identify foundations needed for jurisdiction to implement AEOI.**
- **Report back to the GF plenary on regular basis.**
- **Ongoing a monitoring.**

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- CRS Roadmap

- In February 2014, the G20 calls financial centres to match G20 commitments to implement CRS
- Standard for Automatic Exchange of Financial Account Information in tax matters (July 2014)
- Model Competent Authority Agreement (Model CAA) and CRS
- Setting up of a voluntary AEOI Group (2014)
- G-20 Finance Ministers “Strongly” endorse the Standard –Exchange to begin 2017 or 2018.

KEY PROCESSES for CRS

Country A

Country B

Financial institution

Competent Authority

Competent Authority

Collect data on account holders: name, birth data (an place), address, residence, TIN (if issued); account number, account balance, financial income

Decrypt; quality control check, re-encrypt; send to each country (e.g. via online secure browser using off the shelf software) retain copy securely for follow up

Decrypt data; read or convert (e.g. to spread sheet using off the shelf software); match data with domestic records; tax compliance measures needed; store data securely

Source: OECD

Format data according to CRS specification; encrypt data; send to competent authority (ideally in separate recipient country files)



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- **Country by Country Reporting (CbC) under BEPS (Action 13)**
- **Competent Authority Agreement (Berlin 2014)**
- **Transfer Pricing Documentation and Country by Country Reporting (CbC) (Action 13) under BEPs (February 2015)**
- **CbC reports to be filed in the jurisdiction by tax residence of the ultimate parent entity and shared between jurisdictions through automatic exchange of information pursuant to G to G mechanism.**
- **Implementation – fiscal year beginning 01 January 2016**
- **Apply to MNG with annual groups new equal to or exceeding EUR 750 million.**

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- All above measures **NOT** enough to curb international tax avoidance.
- Why? To curb international tax avoidance, other actions are required – some now founded on BEPS project.
- Relevant BEPS Action Points which may have to be considered.
 - Actions 2, 3, 5, 6, 7 of the BEPS project.

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- **Action Point 2:**
Neutralising the Effects of Hybrid Mismatch Arrangements
 - **Action Point 3:**
Designing effective CFC Rules
 - **Action Point 5:**
Countering Harmful Tax Practice more effectively
 - **Action Point 6:**
Preventing the Granting of Treaty Benefits in inappropriate circumstances
 - **Action Point 7:**
Preventing the Artificial avoidance of PE status
- Query: should the above not be considered within a multilateral context to curb avoidance?**

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To curb international tax avoidance:

- **Most important Action point is Action 15**
Developing a Multilateral Instrument to Modify Bilateral Tax Treaties. This will be a multilateral overarching treaty providing for “minimum standards” on specific actions points.
- **OECD has formed an ad-hoc group to develop a multilateral instrument on tax treaty measures to implement BEPs action points.**
- **92 countries have joined the Group (including India)**
- **5 regional tax organisations have joined as observers. (CREDAF, ATAF, EU)**

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- **Purpose of the multilateral instrument is to facilitate the implementation of the tax treaty-related BEPS measures**
- **In some instances the BEPS outputs provide for alternative ways to address the same issue, e.g. implementing the Action 6 three-part minimum standard**
- **Some flexibility will be necessary to ensure that as many countries as possible can sign agreement, but need to balance flexibility with the coherence of the instrument**

Source: OECD



● ***THANK YOU***