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Directorate-General for Internal Policies
Directorate A - Economic and Scientific Policies
Special Committee Taxe
Tax Rulings and Other Measures Similar in Nature or Effect
The Chair

GFDA D(2015) 19078
307216 23.04.2015

H.E. Ambassador
Reinhard SILBERBERG
Permanent Representative of Germany to
the European Union
Rue Jacques de Lalaing 8-14
B-1040 Bruxelles

Subject: Information on the activities of the TAXE special committee

Dear Ambassador,

In line with the work of the G20, OECD and the European Union, our countries are committed to the fight against tax base erosion, profit shifting and aggressive tax planning. Within the European Union legislation differences and administrative practices seriously distort the conditions of fair competition between Member States as well as between large and small enterprises. This distorts the proper functioning of the single internal market.

On 12 February 2015 the European Parliament established a special committee on tax rulings and other measures similar in nature or effect. The European Parliament Special Committee on Tax Rulings (TAXE), which I chair, has been given six months to complete its work and fulfil its mandate (see annex).

We would be delighted if your Minister responsible for taxation would like to attend one of our forthcoming meetings or would be willing to receive a delegation of the TAXE Special Committee in order to have an exchange of views with us. If so, please be so kind as to contact the secretariat of the committee to find a convenient time for the Minister (taxe-secretariat@europarl.europa.eu).

The competence in the area of taxations lies with the national level. However, cooperation between Member States and the European Parliament is important to ensure that identified shortcomings in the taxation system will be acted upon. In addition, the TAXE Committee intends to associate national Parliaments to its work. A separate letter to the national Parliaments will be sent in due course. Furthermore, the TAXE Committee plans to organise an inter-parliamentary meeting on 17 June 2015.

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It would be useful for the TAXE Committee to receive relevant documents and information from all Member States, the European Commission and the Council enabling it to draw conclusions based on facts. I understand that legal constraints might limit access to certain documents/information, but I count on your cooperation to provide us all information legally possible.

I would be very grateful if you could provide the TAXE Committee Secretariat with the following information concerning your country:

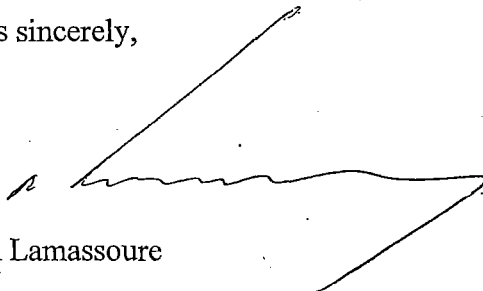
- Action taken or planned at national level to increase transparency in the area of corporate taxation.
- Action taken or planned at national level to limit corporate tax base erosion and profit shifting.
- Overview (including date and name of company) of all tax rulings issued since 1991
- All information since 1.1.2010 shared with other Member States according to Council Directives 2011/16/EU article 9 and 77/799/EEC article 4.
- National list, if defined, of non-cooperative tax jurisdictions and its evolution and justification.
- A list of current international tax treaties having an effect to reduce corporate tax rates.

I very much look forward to your cooperation in this important matter and would appreciate receiving the requested information by 31 May 2015.

For any further information, please do not hesitate to contact the TAXE Secretariat: contact persons Mr Risto Nieminen – risto.nieminen@europarl.europa.eu, 0032-2-2834968 or Mr Massimo Palumbo - massimo.palumbo@ep.europa.eu, 0032-2-2832360.

I look forward to close collaboration and an intensive dialogue with the Minister on this important matter. Please be assured of my warmest thanks for your cooperation.

Yours sincerely,



Alain Lamassoure



TEXTS ADOPTED
Provisional edition

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Setting-up of a special committee on tax rulings and other measures similar in nature or effect

European Parliament decision of 12 February 2015 on setting up a special committee on tax rulings and other measures similar in nature or effect, its powers, numerical strength and term of office (2015/2566(RSO))

The European Parliament,

- having regard to the proposal by the Conference of Presidents,
 - having regard to the decision of the Commission to investigate tax ruling practice under EU state aid rules in all Member States,
 - having regard to the obligation of all Member States under EU taxation rules to communicate to other Member States, by spontaneous exchange, information on tax rulings, in particular if there may be a loss of tax in another Member State or a saving of tax may result from artificial transfers of profits within groups of enterprises,
 - having regard to Rule 197 of its Rules of Procedure,
1. Decides to set up a special committee on tax rulings and other measures similar in nature or effect to examine practice in the application of EU state aid and taxation law in relation to tax rulings and other measures similar in nature or effect issued by Member States, if such practice appears to be the act of a Member State or the Commission;
 2. Decides that the special committee shall be vested with the following powers:
 - (a) to analyse and examine practice in the application of Article 107(1) of the Treaty on the Functioning of the European Union (TFEU) regarding tax rulings and other measures similar in nature or effect issued by Member States since 1 January 1991;
 - (b) to analyse and assess the Commission's practice of keeping under constant review, pursuant to Article 108 TFEU, all systems of aid existing in Member States, proposing to the Member States appropriate measures required by the progressive development or by the functioning of the internal market, checking whether aid granted by a State or through State resources is compatible with the internal market and not misused, deciding that the State concerned is to abolish or alter such aid

within a certain period of time, and referring the matter to the Court of Justice of the European Union if the State concerned does not comply, which has allegedly resulted in a high number of tax rulings incompatible with EU state aid rules;

- (c) to analyse and examine compliance by Member States since 1 January 1991 with obligations set out in Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union¹, regarding the obligation to cooperate and provide all necessary documents;
- (d) to analyse and examine compliance with the obligations set out in Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums² and Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC³, regarding communication by Member States to other Member States since 1 January 1991, by spontaneous exchange, of information on tax rulings;
- (e) to analyse and assess the Commission's practice as regards the proper application of Directives 77/799/EEC and 2011/16/EU regarding communication by Member States to other Member States, by spontaneous exchange, of information on tax rulings;
- (f) to analyse and assess compliance by the Member States with the principle of sincere cooperation enshrined in Article 4(3) of the Treaty on European Union, such as fulfilment of the obligations to facilitate the achievement of the Union's tasks and to refrain from any measure which could jeopardise the attainment of the Union's objectives, given the alleged large scale of aggressive tax planning facilitated by Member States, and the likely significant consequences this has had on public finances of and in the EU;
- (g) to analyse and assess the third-country dimension of aggressive tax planning carried out by companies established or incorporated in the Member States, as well as the exchange of information with third countries in this respect;
- (h) to make any recommendations that it deems necessary in this matter;

3. Decides that the special committee shall have 45 members;
4. Decides that the term of office of the special committee shall be 6 months, beginning on the date of adoption of this decision.
5. Considers it appropriate that the special committee present a report drafted by two co-rapporteurs.

¹ OJ L 83, 27.3.1999, p. 1.

² OJ L 336, 27.12.1977, p. 15.

³ OJ L 64, 11.3.2011, p. 1.