

**MEETING WITH [REDACTED] AMAZON**

**01 FEBRUARY 2016**

***Cab meeting room***

*List of interlocutors:*

[REDACTED]

## SCENE SETTER

### **State Aid (DG COMP)**

### **Tax Rulings (DG TAXUD)**

The Commission proposal for a directive on the mandatory automatic exchange of information in respect of cross-border rulings (published on 18 March 2015) was adopted in December under the LUX Presidency – in record time.

All Member States will receive information on tax rulings issued by other MS and based on that can decide whether they are impacted and should ask for more details.

The Commission will also be included in the information exchange but only receives information necessary to monitor the functioning of the Directive. (e.g. will not receive the name of the tax payer).

The requirement is in line with the OECD Action 5.

The exchanges will take place based on commonly agreed template to be stored in a central depository.

The Directive will be applicable as from 2017 with first exchanges expected in Q3 2017.

Existing rulings as from 2012 have to be exchanged as well (retroactive element).

The CoC Group will continue to monitor the implementation of the model instruction for the spontaneous exchange of information on rulings (on which the directive was based) until the new law comes into force.

## DEFENSIVES

### Automatic exchange of information on tax rulings and State Aid control

***In the agreement reached with the Council, the Commission does not get all the information on tax rulings that Member States have to exchange. How can the Commission then control for State Aid?***

Commissioner Vestager and DG COMP have far-reaching powers to require all the information that they need from Member States and companies. She has used those tools already when she asked all Member States to provide information on their approach to tax rulings.

Of course, it is always better to prevent than to cure. That is why measures such as closing loopholes with a CCCTB and more transparent company reporting of profits and taxes are important. This can prevent companies from obtaining illegal tax-related advantages from Member States to start with.

***The TAXE report calls for the creation of a clearing house for tax rulings, which could also check for illegal State Aid. What is your take on this?***

The establishment of a European clearing house for tax rulings would come with advantages, but disadvantages as well. In particular, Member States should not be absolved from their own responsibility to ensure that their tax rulings comply with the European rules.

The ultimate goal should be that tax rulings serve their true purpose, namely to give a binary answer whether complex company arrangements comply with the national tax laws that are in place. Undue discretion in giving rulings should be tackled by rules on BEPS and a CCCTB.

***What details are needed in the country-by-country company reporting to allow for State Aid control?***

Again, it is better to prevent than to cure. If more transparent company reporting of profits and taxes contains sufficient elements to show the effective tax rates that companies pay in different Member States where they have economic resources, the threat of a very low or no effective tax rate becoming transparent can help in preventing companies from obtaining illegal State Aid from Member States.

Further action on the CCCTB can close loopholes in national tax legislation through which companies obtain State Aid advantages. It is important to focus on such measures, rather than on the details that are needed to correct tax advantages with State Aid tools at a later stage.

Contact(s): [REDACTED] [REDACTED]

## BACKGROUND

### **Multinational corporations invited to the TAXE Special Committee - 16 November 2015 - Written replies AMAZON**

#### Question from Ms Joly, Greens/EFA:

Will you commit today in this democratic house in front of our committee to publicly disclose, even voluntarily, public country by country information (like banks do), especially :

- a) where you employ people,
- b) your turnover,
- c) your profits,
- d) your tax paid and
- e) public subsidies you receive ?

#### Reply AMAZON

On the question in relation to our views on CbC reporting, we would refer you to the comments we made in the hearing, where we outlined our support for the broader CbC initiative, whilst noting some important areas of concern around public reporting.'

#### Question from Mr De Masi, GUE/NGL:

Did your company ever pay a fee to or remunerate a third party, be this tax advice or auditing firms, or the tax administration of an EU member state (see for instance claims made by researchers here [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2685642](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2685642)) whereby the payment was in direct relation to the amount of taxes saved through the service of that third party? If yes, could you please specify in which transactions such a relation existed, who the third parties were and which were the amounts involved in terms of payments and saved tax for your company?

#### Reply AMAZON

Further to your follow up question on the use of contingent fee arrangements, where fees are dependent on income taxes saved, we can confirm that Amazon does not as a point of principle enter into any such arrangements, and is also not aware<sup>4</sup> of any such arrangements that have been entered into the past.

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