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Monica Bhatia
Head of Secretariat
Global Forum on Transparency and Exchange of Information for Tax Purposes
Organization for Economic Cooperation and Development
2 rue André Pascal, 75116 Paris
France

23 October 2014

Dear Ms. Bhatia,

We welcome the recent advances on Automatic Exchange of Information (AEOI), including a proposed pilot with the possibility of non-reciprocity and an initiative to negotiate a Multilateral Competent Authority Agreement (M-CAA) to be signed by the Group of Early Adopters this coming October in Berlin at the Global Forum Meeting.

As a global network of over 150 civil society organizations, 13 governments, and dozens of experts working together to uncover corruption and close loopholes in the global financial system, we commend those involved in the process for their effort to enable a prompt implementation of AEOI.

However, the Global Forum at its meeting in Berlin should send a message to the OECD and G20 leaders to set up rules, means of engagement and benchmarks which are not only suitable for first comers, but are also welcoming and open for other jurisdictions to join in the near future.

Developing countries, in particular low and lower-middle income countries, need to be able to increase their tax revenues to sustainably fund their own development. As many developing countries are estimated to have a higher than average percentage of assets held overseas, ensuring they can effectively tax offshore wealth will be a key factor in this process.

Furthermore, notwithstanding the need to fix loopholes found in the Common Reporting Standard (CRS)¹, global AEOI will only be effective once all jurisdictions participate. Low-entry barriers for developing countries to join and benefit from AEOI are not only a moral obligation, but they are also in the best interest of the developed countries investing their time and resources to make AEOI a reality.

Since including developing countries in AEOI from the start is both a moral and a practical imperative, here are concrete recommendations that we encourage you to pursue in AEOI negotiations in Berlin, Brisbane, and beyond:

¹ See a description of loopholes here: http://www.internationaltaxreview.com/pdfs/TJN2014_OECD-AIE-Report.pdf and here http://cdn.static-economist.com/sites/default/files/external/files/comments_OECD_report_and_commentary_on_AIE.pdf

Negotiate a robust and inclusive M-CAA

- An option for new jurisdictions to join and sign the M-CAA without preconditions, so that eventually all jurisdictions become party to the same M-CAA. Likewise, this same openness should apply to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.
- An annex (similar, but in spirit opposite to the current “Annex A”) for non-reciprocity in favor of low capacity tax administrations, to let them, on a temporary basis, first receive information, without needing to send it.
- Confidentiality requirements according to an international standard (to ensure consistency for all jurisdictions as described by the Commentaries to the CRS), instead of subjecting confidentiality to the discretion of each sending jurisdiction.
- Justifications for the exclusion from AEOI of some jurisdictions which are signatories to the M-CAA, if sending jurisdictions are allowed to choose - by informing the Secretariat- with whom they wish to engage in AEOI. This would allow the excluded jurisdictions to undertake the necessary changes.
- An option to share information within a jurisdiction’s domestic authorities for the purpose of “tackling corruption and money laundering”, not limiting the permitted uses of the data to “tax purposes” only. Exchanging information on balance accounts can be highly relevant for anti-corruption and anti-money laundering authorities such as financial intelligence units and law enforcement. This opportunity should not be missed.
- The requirement for robust annual statistical, country-by-country reporting on all major categories of accounts being reported about, and specifically and at the very least, on the amounts held in undocumented accounts and accounts attributed to residents of jurisdictions which are not yet participating.

Implement the proposed non-reciprocal pilot program

Regarding developing country inclusion, we welcome the non-reciprocal pilot program proposed in the Global Forum Roadmap Report² which could be combined with our proposal: developing countries participating in the pilot could be listed in the M-CAA’s non-reciprocity annex to facilitate their eventual (post-pilot) implementation of AEOI with other jurisdictions. However, we do not believe that the “existence of relevant information to be sent to developed countries”³ should be a relevant criterion to select developing countries. Moreover, all major financial centers should commit both to participating in the pilot and to assisting developing countries with capacity building.

Lastly, we would like to highlight that AEOI and the fight against tax evasion is not only in benefit of governments and tax authorities, but ultimately for its citizens. Therefore, the allegedly “lack of interest or awareness” by some developing countries should be counteracted by having financial centers openly publish

²<http://www.oecd.org/tax/transparency/global-forum-AEOI-roadmap-for-developing-countries.pdf>

³Global Forum Roadmap Report, page 28.

aggregate information on deposits and financial assets held by residents of those “uninterested” developing countries. This would enable the constituencies of those jurisdictions to make informed choices and decisions around the desirability of AEOI, and could possibly support civil society to encourage their own authorities to implement AEOI.

We thank you for your effort to bring more transparency but cannot stress enough that, as first comers and benchmark-setters, you will be determining how effective and inclusive AEOI will end up being. The opportunities available to you today go far beyond any leverage a future peer review report may ever have.

Sincerely,



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