

COFFERS POLICY RECOMMENDATIONS

RECOMMENDATION 1: ESTABLISH TAX INTELLIGENCE CENTRES IN MEMBER STATES AND AT THE EU COMMISSION

The cross border integrated tax planning departments of investment banks, accounting and legal firms require a response by the state that transcends regulatory silos. A robust response that will safeguard the interests of ordinary citizens by countering the multi-billion tax avoidance and money laundering industries must include not only operational capacity to detect the latest complex cases, but equally capacity for strategic orientation. This needs to be innovative and responsive to changing dynamics. At the moment, this capacity is fragmented at the national level and absent at the EU level. As a result, there is increased risk of disconnects and time lags between policy making and regulatory implementation, with the EU public COFFERS suffering from billions in lost tax revenues and uncounted costs in terms of crime and money laundering.

An EU-level Tax Intelligence Centre (EU-TIC) would meet both of these challenges, monitoring macro-economic trends for risks of illicit financial flows and the spillover effects of domestic tax policies, and building advanced data mining and analytical capacity to support targeted tax audit and policy formulation. An EU-TIC would facilitate the prioritization of the negotiation of international agreements, shape policies and programmes for tax compliance, and support local tax administration in operational decision making (staffing, auditing). At the request of member states, the EU-TIC would provide support in policy and operational analyses, as well as tactical and strategic advice.

Dedicated tasks of the EU-TIC would include the identification of abusive tax avoidance structures in EU financial systems and the internal market, and the design of suitable responses. The identification of structures would rely *inter alia* on the new directives on mandatory reporting of aggressive tax planning schemes (Council Directive 2018/822/EU) and on the protection of whistleblowers (Council Directive 2019/1937/EU). Furthermore, the role of the EU-TIC would encompass the identification of tax evasion and money laundering risks across the entire EU, and individual EU member states, by providing data-driven country profiles of vulnerability and exposure to illicit financial flows. This would rely in part on bilateral financial secrecy index analyses. The EU-TIC would also provide and review tax gap estimates.

The EU-TIC would set an example in transparency, by publishing periodic reviews, documenting in detail its activities and impact.

RECOMMENDATION 2: ADDRESSING DATA GAPS

Without reliable data, tax evasion and avoidance and money laundering cannot be countered successfully and sustainably. Public data for researchers and the wider public and the integrity of confidential administrative data require improvement. This will foster trust in institutions, contribute to a level playing field and fortify the rule of law.

Interoperability of available registry data is a pressing concern that requires a response both within, and beyond the European Union. With some economic groups in the financial sector controlling up to 25,000 separate entities, a need for the unambiguous identification of ownership structures is evident. The potential of the Legal Entity Identifier to allow interconnectivity, or even to replace EU-wide separate numbering systems of domestic legal entities, should be explored. Incentives to keep the data valid and updated have to be implemented consistently. Measures to ensure integrity and timely information include ensuring public access to financial statements, ownership data, and statistics on regulatory and enforcement actions taken by the registries in cases of non-compliance.

The current lack of data on country by country information should be remedied to construct a level playing field between SMEs and large multinationals. SMEs often operate in one country and are unable to shield relevant accounting data from public scrutiny. Large multinational companies do so by consolidating accounts and structuring corporate networks strategically.

To ensure the continued success of the automatic exchange of tax information on financial accounts, commitment by participating jurisdictions and data quality should be monitored. Comprehensive statistics on the data exchanged by country of account holder, controlling person and bank location should be published. Public statistics on golden visas and similar programmes should be made mandatory to protect against the undermining of the effectiveness of automatic information exchange of financial account information.

Standard statutory tax rate datasets should be complemented with measures of the lowest available corporate income tax rates (LACIT) legally available in jurisdictions, to improve the validity of academic research and policy analyses. Such data on LACIT is provided by COFFERS' in the Corporate Tax Haven Index.

RECOMMENDATION 3: ADDRESSING POLICY GAPS AND LOOPHOLES

While the European Union has taken many bold legislative steps in the past years, policy gaps remain that urgently need addressing. In the realm of automatic information exchange of financial account information, the effectiveness of the entire system is jeopardised by recalcitrant jurisdictions and banks that refuse to engage in fully reciprocal information exchanges. To ensure a level playing field, the EU should consider implementing a withholding tax policy against non-participating banks that fail to provide full financial account data on a reciprocal basis, using market access as leverage to ensure compliance.

Furthermore, the validity of passports issued under *golden passport* schemes by some members states should be constrained, at a minimum by requiring this status to be declared on the passports and through information exchange protocols. Without this measure, tax evaders and criminals are able to open foreign bank accounts with purchased citizenship to circumvent reporting to tax authorities in their place of primary residence. In order to improve pan-European cooperation in

prosecuting cross border tax evasion and money laundering, legislative efforts should be directed towards creating harmonised and clear definitions of both crimes. A pan-European prosecutorial agency for these matters should be instituted. Efforts to counter money laundering through beneficial ownership disclosure need to be complemented by disclosure of legal ownership in all cases. Disclosure requirements should be expanded to incorporate EU real estate and freeport users. Bearer shares should be abolished or immobilised with government authority.

A return to a truly progressive tax system can help prevent the further spread of populist and extremist movements. Effective cooperation on business taxation supports this. To date no breakthrough in the area of business taxation comparable to automatic information exchange has been achieved. A first step is the speedy enactment of public country by country reporting rules for large corporate groups. This is as is proposed in a directive under negotiation amending Directive 2013/34/EU in regard to the disclosure of income tax information by certain undertakings and branches. Minimum taxes should complement the adoption of the Common Consolidated Corporate Tax Base (CCCTB).

Fundamental corporate tax reforms (towards unitary taxation/CCCTB) will take some time. They should be complemented by intermediate policy steps that can be implemented unilaterally and immediately. Examples of such intermediate steps include the abolition of patent boxes and notional interest deductions, the inclusion of capital gains in the corporate income tax base, constraining loss utilization over time, and the introduction of robust deduction limitations on intra-group royalty and service payments.

These new EU policy-making efforts should be implemented in a way that contributes to stronger democracy in the EU. This can be achieved by establishing channels for the greater participation of independent academics and civil society organisations in the reform process. Reform should no longer be dominated by private interests and a closed and technocratic network.