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BUSINESSEUROPE position on the EU Commission's communication on Promoting Good Governance in Tax Matters

THE EUROPEAN COMMISSION'S COMMUNICATION ON PROMOTING GOOD GOVERNANCE IN TAX MATTERS

On April 28, 2009, the European Commission (the Commission) adopted a Communication identifying actions that EU Member States should take to promote "good governance" in the tax area (i.e. more transparency, exchange of information and fair tax competition). The Communication builds on the existing EU policy on good governance and the G20 conclusions concerning uncooperative tax jurisdictions.

BUSINESSEUROPE appreciates this opportunity to comment on the communication.

BUSINESSEUROPE supports the Commission's view that closing up markets as a means to counter tax havens would be counterproductive.

BUSINESSEUROPE shares the Commission's view that agreements with third countries covering common standards and cooperation is a more viable approach in dealing with negative effects from globalisation.

BUSINESSEUROPE also agrees that fair and efficient tax systems play an essential role in ensuring a level playing field for economic relations, trade and investment.

However, good governance ought to include also the removal of double taxation and other obstacles. Unfortunately, the Communication adds very little to the issue on how to remove cross-border tax obstacles and how to achieve a true internal market. Considering the fierce global competition that European companies face, BUSINESSEUROPE believes that an effective internal market would be best served by a system promoting capital import neutrality (CIN) and by the repeal of all withholding taxes within the internal market. Any reflection on such thoughts, however, is not found in the Communication. Instead the focus seems to be entirely on how individual Member States should uphold their national tax systems and enforce capital export neutrality (CEN).

***Good governance in the tax area within the EU***

The Commission calls on the Council to adopt the Commission proposals on changes to the savings directive and new directives on administrative cooperation in the tax field and on mutual assistance for the recovery of tax claims.

Although BUSINESSEUROPE is supportive of the overall aim to counter tax fraud, we are concerned about the way chosen to reach this objective. There is an inherent risk that States in dealing with tax fraud are inclined to come up with measures that lack in proportionality with undue consequences for compliant businesses. In an effort to step up the war on tax fraud, the above directive proposals by the Commission all entail far reaching provisions on scope, information requirements, disclosure of information etc. that run the risk of unduly increasing costs for compliant businesses.

Good governance in the tax area in relation with third countries

With respect to the Commission's proposed actions to promote good governance in the relations with third countries:

- BUSINESSEUROPE recognizes the merits of developing a coherent policy within the EU toward third countries engaging in harmful business tax practices, such as by adopting a common approach to the application of anti-abuse measures. However, in order to avoid undue restrictions on cross-border activities in relation to third countries, it is of course of utmost importance that the anti-abuse measures are sound and fair and aligned with the concept of wholly artificial arrangements as established by the European Court of Justice (ECJ).
- BUSINESSEUROPE supports the Commission's view on linking EU financial support to countries to their level of cooperation with the principles on good governance and agrees that Member States also, under their bilateral assistance programmes, should seek a more coordinated approach between financial donors in this respect.
- BUSINESSEUROPE supports the Commission's exhortation that Member States should coordinate their tax policies, including bilateral tax treaties, with third countries, in order to avoid opening up opportunities for tax avoidance of other Member States' tax systems or for circumvention of EU directives.

On behalf of the BUSINESSEUROPE Tax Policy Group

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