2012

Tax cooperation: beyond exchange of information on request

Achim Pross and Stephanie Smith discuss dramatic improvements in exchange of information on request over the last couple of years

Introduction

Offshore tax evasion is a serious problem for countries all over the world – small and large, developed and developing. Vast amounts of money are kept offshore and go untaxed when taxpayers fail to comply with their tax obligations in their home jurisdiction. The amounts of tax collected from offshore disclosure initiatives give an indication of the size of the issue. For instance, between the 2009 London G20 Summit, when G20 leaders took action to end the era of bank secrecy, and the 2011 Cannes G20 Summit, in a relatively small number of countries such initiatives brought in more than €14 billion of additional tax. A multiple of this amount is still likely to be undisclosed.

As the world becomes increasingly globalized and cross-border activities become the norm, tax administrations require a range of tools to ensure that taxpayers pay the right amount of tax to the right jurisdiction. It is against this backdrop that dramatic progress has been achieved over the last couple of years. We have moved from a world with limited ability to request information from financial centres to a world where all financial centres around the world have accepted and are implementing the standard of exchange of information on request.

The OECD's work on exchange of information on request and the peer review work of the Global Forum on Transparency and Exchange of Information are well known. The work of the Global Forum ensures effective implementation of the standard both in law and in practise.

Automatic exchange of information

Countries are also using strategies that complement information exchange upon request. One such strategy is automatic exchange of information. Automatic exchange of information involves the systematic and periodic transmission of 'bulk' taxpayer information by the source country to the residence country concerning various categories of income (eg. dividends, interest, royalties, salaries, pensions, etc).

Automatic exchange of information as such is not new but there is now a growing interest in this form of exchange by many governments, NGO's, politicians and civil society. Also, at the international level, including at the EU, the OECD and the G20 automatic exchange is high on the agenda.

Further, the OECD's project on Treaty Relief and Compliance Enhancement (TRACE), which is designed to provide an effective system for obtaining treaty benefits, incorporates standardised systems of information exchange and, with the support of business, has made significant progress.

In a recent statement France, Germany, Italy, Spain, the United Kingdom and the United States committed to working with other interested countries, *"the OECD, and where appropriate the EU, on adapting FATCA in the medium term to a common model for automatic exchange of information, including the development of reporting and due diligence standards."* Business supports the attempt to create single international standards and avoid the proliferation of dif-

Automatic exchange of information as such is not new but there is now a growing interest in this form of exchange by many governments, NGO's, politicians and civil society

ferent systems. The EU is engaged in revising its Savings Directive and recently adopted its Mutual Assistance Directive which also contains provisions on automatic exchange. The OECD and the Council of Europe recently revised the *Convention on Mutual Administrative Assistance in Tax Matters* which provides a basis for automatic exchange. It is now open to all countries.

The OECD has been active in facilitating automatic exchange for many years to support those interested in this form of exchange. The work has ranged from creating the legal framework for such information exchanges to developing technical standards and seeking to improve automatic exchange at a practical level. In addition, the OECD has produced guidance on automatic exchange and provided training to countries interested in developing the necessary framework and operating automatic exchange on a practical level.

Results of a recent survey on automatic exchange conducted by the OECD show widespread use of automatic exchange of information regarding country coverage and income types, transaction values and records exchanged. Among the most frequently exchanged income types are: interest, dividends, royalties, salaries and pensions. Key findings include:

Many countries, OECD and non OECD economies, receive information automatically from treaty partners;
85% of surveyed countries send information automatically to treaty partners (up to 70 partners in one case);
The value of transactions reported to most countries in a year is measured in the euro billions and five countries each received information totalling in excess of €15 billion.

Automatic exchange as a tool to counter offshore non-compliance has a number of benefits. It can provide timely information on non-compliance where tax has been evaded either on investment return or the underlying capital sum. It can help detect cases of non-compliance even where tax administrations have had no previous indications of non-compliance. Other benefits include its deterrent effect, increasing voluntary compliance and encouraging taxpayers to report all relevant information.

While the work on automatic exchange has shown that it can be an effective tool for compliance, it has also identified some challenges and areas where more work needs to be done on both the practical and policy side. The true measure of success is not the quantity of information exchanged but the compliance that is achieved. As technology continues to evolve, the applicable technical standards and processes must evolve and it is critical for governments to make sufficient investments in IT and related back-office functions to keep pace with the developments. Standardization of technical formats and the development of common reporting standards are important for both governments and business as it will lead to a reduction in the compliance burden.

Another key component in connection with automatic exchange of information is the need to ensure that information exchanged is kept confidential. This aspect has long been a key focus for the OECD and tax administrations in respect of all forms of exchange of information, not just automatic exchange, but it is particularly pronounced in the automatic exchange area. To engage in exchange of information countries need a high degree of comfort that the information is kept confidential both in law and in practice and is only used for the purposes allowed under the applicable exchange instrument. The OECD recently published a guide, *Keeping it Safe: The OECD Guide on the Protection of Information Exchanged for Tax Purposes*.

Conclusion

Much is happening in the area of international tax co-operation as this brief overview has shown. These developments will benefit not only governments but also business. Governments will better be able to enforce their own domestic tax laws and ensure that the right amount of tax is paid in the right jurisdiction. In addition, through the standardization of formats and common reporting standards, the cost of compliance will be reduced for both governments and business. With governments determined as ever to crack down on offshore tax evasion this work is likely to continue – so stay tuned. ■

Achim Pross is Head of the International Co-operation and Tax Competition Division, and Stephanie Smith is Head, International Cooperation Unit at the Centre for Tax Policy and Administration, Organisation for Economic Co-operation and Development