

ITPG

Automatic Exchange of Information

Singapore and Switzerland appear being cooperative

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The issue of transparency and information exchange has been on the international tax agenda for a number of years. It is being driven forward with great momentum by key international standard-setting bodies such as the Organisation for Economic Co-operation and Development (OECD) and the United Nations (UN), in international forums including G5 and G20, and also by the European Union (EU).

The G20 and G5, which comprises France, Germany, Italy, Spain and the United Kingdom, mandated the OECD to develop a collective reporting standard for the Automatic Exchange of Information (AEOI) regarding financial account information for financial institutions, which was adopted in January 2014. At a meeting in Sydney, Australia, on 22/23 February 2014, the finance ministers of the G20 called on all coun-



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tries and regions to implement the new AEOI standard as quickly as possible. On 6 May 2014, the ministers of the OECD member states and a number of other countries issued a declaration confirming this objective. Singapore and Switzerland also endorsed the declaration. In June 2014, the OECD's Committee on Fiscal Affairs (CFA) finalised the new global AEOI standard.

The future outlook and next steps:

- Third quarter of 2014: The OECD Council adopts the new global AEOI standard.
- 20/21 September 2014: Standard presented to the G20 finance ministers in Cairns, Australia.
- 28/29 October 2014: The individual members of the Global Forum expected to announce whether they will be applying the standard.
- Next step: Implementation of the AEOI standard in participating countries, which will include political debate, drafting legislation and regulations, implementation by banks (duration in each case dependent on national legislative procedures).
- 2017-2018: Application of the new global AEOI standard starts (depending on respective national legislative procedures).

The challenge is the implementation. Global standards are easy to adopt, but extremely difficult to implement because they are highly complex. Dif-



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ferent rates of implementation can often be a reason for the retraction, obstruction or withdrawal of a country. Consequently, the pressure that G20 finance ministers, major international banking associations and countries with automatic information exchange place on financial centres must be sufficiently great to ensure that they sign up to the standard. This is why implementation by market leaders is so vitally important. In addition, the cost associated with introducing the AEOI standard appears to be not quantifiable, both in terms of administration and for the financial sector.

Criticism of the AEOI and open questions

The AEOI is without a doubt a massive invasion of privacy and therefore

encroaches on the basic right of personal freedom. In the case of full information exchange, the state can look into its citizens' accounts at random, without initial grounds for suspicion. In the early stage, the AEOI will only apply in a cross-border context, but it is just a matter of time before it becomes a national standard.

In taxation, the Swiss principle of good faith between the state and its citizens is evidenced in the principle of self-declaration. This is one of the reasons why Switzerland has the lowest shadow economy and tax evasion rate in Europe, and also relatively healthy public finances. Consequently, Switzerland is not interested in the automatic information exchange for tax reasons. The motivation for introducing the AEOI is to protect the interests of the financial centre and to drive forward the fight against untaxed funds internationally. Switzerland must therefore demand for comparable return services and regulations from countries which call for the AEOI. International standards are to be implemented when the principle of reciprocity is observed.

However, there are legitimate fears that some countries will not or rather cannot implement the AEOI on a comparable standard as Switzerland can. The reason for this is that the majority

of Swiss institutions know their customers much better than American or other European financial institutions do. This particularly relates to the trust constructs that play a key role in the offshore finance centres of the USA's (Delaware and Nevada) and UK's spheres of influence.

Solution for the past

The AEOI sets out rules for the future, but a solution is also required for the past. Before agreement is reached between two countries to adopt the AEOI, a solution must be found for legacy issues. In Germany, Swiss banks actively support their customers in tax compliance and honesty through the well-established tool of voluntary self-disclosure to avoid penalty.

Experience from different countries shows that such regulation programmes are only successful if they are financially viable and not overly complicated, as otherwise there is a greater risk that funds will flow off into dubious countries. Reforms of voluntary self-disclosure to avoid penalty should therefore be carried out judiciously.

On the whole, it can be assumed that the majority of countries with important financial centres will bow to in-

ternational pressure and introduce the AEOI. Taxpayers with foreign tax matters which have not yet been disclosed to the domestic tax authorities would be well advised to rethink exit strategies for returning to full tax compliance in good time by choosing the route of voluntary self-disclosure to avoid penalty.

We welcome the cross-border campaign against untaxed funds, but see major challenges in the implementation and introduction of a global standard such as the AEOI. We will continue to closely monitor developments in this matter and are happy to answer any questions.

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