

COMMISSION OF THE EUROPEAN COMMUNITIES

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PROBLEMS OF INTERNATIONAL TAX EVASION AND AVOIDANCE

(communication and draft resolution of the
Commission to the Council)

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Problems of International Tax Evasion and Avoidance
(Communication from the Commission to the Council)

The Commission attaches growing importance to the problem presented in all Member States by international tax evasion and avoidance.

A feature common to both international evasion and international avoidance is that national tax authorities have difficulty in establishing facts, owing to their limited means of finding out what has happened in another State, even where a double taxation agreement provides for an exchange of information.

On a national level the problem of international tax evasion and avoidance is of concern mainly because of the budgetary loss it represents. From the standpoint of the Community as a whole it has further important consequences, in that it causes abnormal capital movements and produces distortions in the conditions of competition.

The Commission has already drawn attention to certain aspects of the problem in its Report on the Tax Arrangements applying to Holding Companies (COM(73)1008 final, dated 18 June 1973) and in its communication to the Council on Multinational Undertakings and Community Regulations (COM(73)1930, dated 7 November 1973).

After discussion with experts from the Member States, the Commission has come to the view that in order to combat international evasion and avoidance the greatest need is for much closer collaboration between national tax administrations in a Community framework, since it appears that the present collaboration on a bilateral basis does not give satisfactory results.

In particular, the following points should be considered :

- The competent authorities in Member States should supply to one another all information necessary for making correct assessments for taxes on income or profits, without waiting for a request from the other State concerned, especially in circumstances where the other State could not be expected to know anything about the matter at all. This is particularly important where there is reason to suppose that tax may be lost through fraud or other malpractices, and where it appears that, in order to gain taxation advantages, associated enterprises are transferring profits from one country to another or are carrying out transactions through a third country ;
- It would be useful if a Member State could call upon another Member State, in appropriate circumstances, to make investigations on its behalf ;
- Officials of the State to which information is being supplied might be given the opportunity to take part, within the informing State, in the work of establishing relevant facts, especially in the examination of business records, in taxation investigations and in the collection of evidence, including the hearing of persons by the taxation administration ;
- A permanent working group of representatives of Member States could be set up under the auspices of the Commission. The members of this group would keep the operation of the collaboration procedures under review in order to remove difficulties and ensure smooth running. They would also exchange their experience in the field of the artificial transfer of profits within groups of enterprises with a view to formulating Community rules for dealing with the problem.

The greatest care must nevertheless be taken to ensure that information passed by one State to another is not disclosed to unauthorised persons and that trade secrets and the like are fully protected.

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In order to ensure the realization by appropriate means of the close collaboration between national administrations that is necessary to combat international tax evasion and avoidance, the Commission requests the Council to adopt the draft resolution in the attached Annex, thus recording its agreement with the aims and principles set out in this document and its undertaking to participate actively in their implementation.

Draft Resolution of the Council on the measures to be
taken by the Community in order to combat
international tax evasion and avoidance

The Council of the European Communities,

Having regard to the communication of 1974 from the Commission
on the problem of international tax evasion and avoidance,

whereas practices of tax evasion and tax avoidance reaching beyond
the national borders of Member States may lead to distortions of
capital movements and of conditions of competition within the
Community ;

whereas the international nature of the problem means that national
measures, whose effect necessarily does not extend beyond State bound-
aries, are insufficient, so that closer collaboration is desirable
between Member States in a Community framework ;

whereas care must nevertheless be taken to protect the basic rights
of citizens and of enterprises within Member States and to have re-
gard to the requirements of those States to preserve secrecy in cer-
tain matters ;

- Considers that action has to be taken in the matters set out below ;

- (a) The furnishing by Member States to one another, whether on request
or not, of all information that appears to be of use for the making
of correct assessments for taxes on income or profits and in parti-
cular of information in every case where there appears to be an ar-
tificial transfer of profits between associated enterprises in dif-
ferent countries, or where transactions are carried out between
enterprises in two Member States through a third country in order
to obtain taxation advantages, or where losses of tax have occurred
or may occur for any reason whatever ;
- (b) The carrying out of investigations, for making correct assessments
for taxes on income or profits, by one Member State on behalf of
another when the latter State requests it to do so.

(c) The provision of facilities for officials of one Member State to take part within another Member State in the work of establishing facts that will be of use for making correct assessments for taxes on income or profits in the first Member State ;

(d) The establishment under the auspices of the Commission of a permanent working group of representatives of Member States to review and improve the working of co-operation procedures and to exchange experience in the field of the artificial transfer of profits within groups of enterprises with a view to formulating appropriate Community rules.

- Takes note of the Commission's intention to present proposals to it in this field as soon as possible.

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