EXCHANGE OF INFORMATION
The End Of Financial Privacy

Automatic exchange of tax information will soon become a reality, one affecting most corners of the globe. The new automatic exchange of information for tax purposes will follow a Common Reporting Standard, developed by the OECD. Almost a hundred countries have committed to it so far. The Standard provides for annual automatic exchange between governments of financial account information. It sets out the financial account information to be exchanged, the financial institutions that need to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures to be followed by financial institutions. The information to be exchanged includes:

- account balances
- interest
- dividends
- sales proceeds from financial assets

This covers accounts held by individuals, as well as by entities like trusts and foundations.

The financial institutions that need to report include banks, custodians, guardians, certain collective investment vehicles and certain insurance companies. They will have to determine the residence of each customer and collect data on their assets and income. This will be forwarded to the tax authorities in the customer's country of residence.

This is quite different, and much further reaching, to the information exchange on request which was introduced through many bilateral agreements after governments stepped up their fight against offshore tax evasion following the 2008 financial crisis.

Under these agreements, tax authorities ask for information on people's financial assets when they suspect them of tax evasion. Now they will receive information on everyone, every year, regardless of how compliant or not the taxpayer is.

By comparing the data received with what taxpayers include on their tax returns, the authorities will be able to detect where income or the underlying assets have not been declared. This will include many cases where the tax administrations had no previous indications that the taxpayer was not compliant. It is expected to provide tax authorities around the world with details of assets worth billions held abroad.

Financial information started to be collected in 2016, for the first transmissions in 2017. 58 jurisdictions, the so-called "early adopters" have committed to be ready then. This includes the EU, Isle of Man, Jersey, Guernsey, Gibraltar, Bermuda, Cayman Islands, British Virgin Islands, Ireland, Iceland, Liechtenstein, Luxembourg, San Marino, Seychelles, Argentina & South Africa.

A further 35 jurisdictions pledged to start in 2018. This includes Australia, Austria, Bahamas, Brazil, Brunei, Canada, China, Hong Kong, Monaco, Qatar, Russia, Singapore, United Arab Emirates and, significantly, Switzerland.

Bahrain, Cook Islands, Nauru, Panama and Vanuatu have not yet committed to a time line.

The OECD will establish a peer review process to ensure that exchange of information is effectively implemented in all jurisdictions. It is also encouraging developing countries to join the movement. In Europe, the Common Reporting Standard will be implemented through the Administrative Cooperation Directive.

The revised version of this Directive was adopted in December 2014. It provides for automatic information sharing on interest, dividends and other investment income, account balances, sales proceeds from financial assets, income from employment, directors' fees, life insurance, pensions and property.

This new global exchange of information will be an invaluable tool for the tax authorities, which can compare the data received with that supplied on tax returns. This loss of financial privacy is a significant change and affects everyone who lives in one country and has assets in another.

One thing that has not changed, though, and this is that every individual has the right to structure their assets in a tax efficient manner. It is important to only use arrangements which are compliant in your country of residence, but it is also important to protect your wealth, for yourself and your heirs, where possible. It is possible to take advantage of legitimate opportunities to protect your assets from various taxes. You need to be informed on developments and take specialist advice.

Which information is to be automatically exchanged with the OECD standard?

The information to be transmitted includes account and tax identification numbers as well as the names, addresses and dates of birth of taxpayers abroad with an account in a country other than the country of origin, all types of income and account balances. The standard covers both natural persons and legal entities. The actual beneficial owners of the account in accordance with the international provisions on combating money laundering (FATF) must be identified in application of the OECD standard and the FATF recommendations.

How is the automatic exchange of information conducted?

The information on taxpayers abroad with an account in a country other than the country of origin is transmitted to national tax authorities by banks as well as certain collective investment vehicles and insurance companies. These authorities then automatically forward the data to the tax authority in the relevant partner country once per year.

What happens with the data that is exchanged?

Client data may be used solely for the agreed purpose, i.e. to establish a correct tax assessment in this case. However, the standard does not indicate how precisely the national tax authorities are to do this (e.g. spot checks or extensive data reviews). Data protection has to be ensured.

How will compliance with the new global standard be monitored in the future?

The Global Forum on Transparency and Exchange of Information for Tax Purposes, which has approximately 120 member states, is currently preparing methods and criteria for checking implementation of the new global standard in the individual countries in the future.

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