Automatic Exchange of Financial Account Information

Noncompliance with tax obligations is one of the biggest issues of global economy which makes countries lose their income and experience an intensive outward flow of money. The OECD is a major organization which helps jurisdictions around the world to comply with tax regulations and prevent issues connected to tax avoidance and evasion. And a core aspect of the mutual international fight against tax evasion is exchange of information.

In 2014 the OECD dynamically developed new global standard on automatic exchange with support of G20 Finance Ministers and Central Bank Governors. The Standard for Automatic Exchange of Financial Information in Tax Matters was finally endorsed by the G20 Finance Ministers in September 2014 and G20 Leaders acknowledged the full Standard in November 2014.

The economies reacted promptly to the innovation and by November 2015, 74 jurisdictions had joined the multilateral competent authority agreement which specifies the details of what information will be exchanged and when. All the global financial centers were called to implement new global standards without delay which caused the necessity to provide technical assistance to developing countries to help them benefit from the new Standard.

Under the global standard for automatic exchange of financial account information the data from financial institutions is obtained by jurisdictions and automatically exchanged with other jurisdictions annually. The following types of data are exchanged:

* financial account information;
* financial institutions ;
* accounts and taxpayers;
* common due diligence procedures.

To prevent tax scheming, the Common Reporting Standard (CRS) is created with a broad scope across three dimensions:

1. All types of investment income, account balances and sales proceeds must be reported.
2. The financial institutions that are required to report include banks, custodians, brokers, certain collective investment vehicles and certain insurance companies.
3. Reportable accounts are accounts held by individuals and entities (including trusts and foundations).
4. Financial institutions must follow the due diligence procedures to identify reportable accounts.

As for the legal basis, there is the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, amended in 2011, which is a multilateral information exchange instrument allowing to establish automatic exchange relationships. It provides for all possible forms of administrative co-operation between States, contains strict rules on confidentiality and proper use, and permits automatic exchange of information. There are now over 95 jurisdictions participating in the Convention, including all G20 countries.

Despite the fact that there are not any particular timelines for the countries to implement the Standard, it is highly beneficial for both business and government to start the project with all possible dispatch. The first exchanges of information are expected to occur in 2017 or 2018.The CRS is implemented in four steps by jurisdictions:

1. The reporting and due diligence requirements are translated into domestic law.
2. A legal basis for the exchange of information is selected.
3. The administrative and IT infrastructure to collect and exchange information is created.
4. Confidentiality protection measures and data safeguards are taken.

The implementation of the Standard is monitored and reviewed by the AEOI Group that comprises Global Forum members. The AEOI Group draws on the experience of the OECD, the World Bank Group, the G20 and others. Moreover, it helps developing countries to identify their need for technical assistance and capacity, providing training for government officials on how to implement the Standard.

The Standard should not be confused with the Foreign Account Tax Compliance Act (FATCA) introduced in the USA. The US specificities were removed from the Standard which consists of a fully reciprocal automatic exchange system. FATCA does not consider citizenship while the Standard is based on residence. Unlike the Standard, FATCA provides for thresholds for pre-existing personal accounts but the Standard provides for a simplified indicia search for this type of accounts and includes the test of a residence address.

The confidentiality of the information exchanged is ensured by specific rules identified in the Standard and international legal exchange instruments already underlined. The Global Forum AEOI Group is performing sophisticated assessments of the confidentiality and data safeguards of jurisdictions committed to AEOI in order to facilitate the decision making by Global Forum members as to which jurisdictions they will automatically exchange information with.

The automatic exchange is highly beneficial for both business and government at international level as far as it provides timely information on non-compliance where tax has been evaded for two reasons: on the underlying capital sum or an investment return. In case tax authorities do not have any previous red-flags indicating non-compliance, the automatic exchange can detect such cases.

Besides detection of irrelevant situations, automatic exchange is an effective tool which can be applied to educate taxpayers in reporting obligations, increase tax revenues for the economy an lead to common fairness of the tax system.