

Proposed penalty for failure to file country by country report 1/43/19



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On 1 October 2019 the Cabinet of Ministers debated and supported proposals for amending the Taxes and Duties Act to impose a new penalty for failure to duly file a country-by-country report.

The amendments are intended to pass certain provisions of Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information (AEOI) in the field of taxation in relation to reportable cross-border arrangements (commonly known as DAC6).

On 17 October 2019 the Bureau of Parliament suggested that the proposals for amending the Taxes and Duties Act submitted by the Cabinet of Ministers should be passed to the Budgetary and Finance (Fiscal) Committee, which should be appointed as committee in charge.

The present situation and issues

European Parliament resolution of 6 July 2016 on tax rulings and other measures similar in nature or effect (2016/2038(INI)) estimates offshore wealth at USD 10 trillion. To avoid paying taxes, wealthy individuals as well as multinational enterprises (MNEs) take advantage of difficulties their country of residence has in obtaining information about their foreign holdings and in mapping their global group structure. MNEs often move their untaxed profits arising in one country to another jurisdiction that accommodates, say, shell companies. The EU exchange-of-information rules are being adopted to prevent tax fraud, evasion and avoidance.

One of the ways in which the tax authorities cooperate is AEOI, which includes systems such as the global standard on AEOI on financial accounts and country-by-country reporting.

Each member state is responsible for ensuring these systems operate in its territory because only efficient use of the reporting and disclosure tools will achieve the goal of information exchange, i.e. enabling the tax authorities share information that may be useful to another country in administering taxes. This also helps the Latvian State Revenue Service tackle taxpayers failing to meet statutory requirements.

Country-by-country (CBC) reporting in Latvia

Procedures for preparing and filing a CBC report are laid down by the Cabinet of Ministers' Regulation No. 397 of 4 July 2017 on CBC reporting (these procedures were described in our Flash News edition of 13 April 2017).

Based on reports received, the State Revenue Service may identify any aggressive tax planning undertaken by an MNE group taking advantage of loopholes in national and international tax laws to shift profits from one country to another and minimise tax liabilities. The first exchange of information on CBC reporting took place in June 2018.

The new amendments were drafted to promote AEOI based on international practice and meet requirements applicable to all the countries within the AEOI system.

Penalties

The proposals prescribe a penalty of up to 1% of the taxpayer's annual turnover in the financial period (capped at EUR 3,200) if the taxpayer has failed to duly prepare or file a CBC report.

Penalties for non-compliance with CBC reporting rules have been adopted by Latvia as well as other countries, for example:

- up to EUR 10,000 for failure to file a CBC report and EUR 3,000 for non-compliance with statutory procedures in Slovakia;
- between EUR 1200 and 30,000 for medium and large companies in Slovenia;
- up to EUR 3,300 in Estonia.