THE O.E.C.D. ANNOUNCES GLOBAL STANDARD FOR AUTOMATIC EXCHANGE OF INFORMATION

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Tags
Automatic Exchange of Information
O.E.C.D.

As we noted in our prior issue, the Leaders of the G-20 Summit endorsed automatic exchange of information reporting to combat tax evasion in September 2013. In particular, they stated:

> We commend the progress recently achieved in the area of tax transparency and we fully endorse the OECD proposal for a truly global model for multilateral and bilateral automatic exchange of information. Calling on all other jurisdictions to join us by the earliest possible date, we are committed to automatic exchange of information as the new global standard, which must ensure confidentiality and the proper use of information exchanged, and we fully support the OECD work with G20 countries aimed at presenting such a new single global standard for automatic exchange of information by February 2014 and to finalizing technical modalities of effective automatic exchange by mid-2014. In parallel, we expect to begin to exchange information automatically on tax matters among G20 members by the end of 2015.[1]

On February 13, 2014, the Organisation for Economic Co-Operation and Development ("O.E.C.D.") announced a global standard for automatic exchange of financial account information. Over 40 countries made a joint statement and committed to an early adoption of this standard.[2] On February 23, 2014, the G-20 finance ministers and central bank governors endorsed the proposal.

The O.E.C.D. global model standard is based on the following key drivers:

- A common standard on information reporting, due diligence and exchange of information;
- A legal and operational basis for the exchange of information, including confidentiality and protections against misuse of information gathered through this process; and

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1 See G20 Leaders' Declaration, p. 51, September 2013.
2 See http://www.oecd.org/tax/transparency/Joint%20Statement.pdf.

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- Common or compatible technical solutions.[3]

Essentially, the O.E.C.D. global model standard has adopted F.A.T.C.A. (and its intergovernmental agreement approach) for information reporting purposes. In particular:

- Financial institutions subject to reporting include depository and custodial institutions, investment entities, and specified insurance companies, unless they present a low risk of being used for evading tax.

- Reportable accounts include accounts held by individuals and entities (which includes trusts and foundations), and the standard includes a requirement to look through passive entities to report on the relevant controlling persons. In addition, accounts held by passive nonfinancial entities must also be reported, if they have as one or more of their controlling persons one of the above-listed individuals or entities.

- The financial information to be disclosed with respect to reportable accounts includes interest, dividends, account balances, income from certain insurance products, sales proceeds from financial assets, and other income generated with respect to assets held in the account or payments made with respect to the account.

- The required information will be exchanged within nine months after the end of the year to which the reported information relates. The currency in which the reported amounts are expressed must be stated. The competent authorities of the countries party to an agreement will settle on the data transmission method. The internal tax laws of the country exchanging the information will apply to determine the character and amount of payments made with respect to a reportable account.

- Due diligence procedures distinguish between pre-existing and new accounts and high value and low value accounts.

    - Due diligence for pre-existing individual accounts are based either on an "indicia" search or on enhanced due diligence procedures requiring a paper search and actual knowledge test of the relationship manager. For new individual accounts the standard contemplates self-certification.

    - For entity accounts, financial Institutions are required to determine: (a) whether the entity itself is a reportable person, which can generally be done on the basis of available information (A.M.L./K.Y.C. procedures) and if not, a self-certification would be needed; and (b) whether the entity is a passive non-financial entity and, if so, the residency of controlling persons. Pre-existing entity

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[3] The Global Standard Model does not address them and they are expected to be addressed by mid-2014.

accounts below 250,000 U.S.D. (or local currency equivalent) are not subject to review.

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What was once initially intensely resisted by much of the world is now being emphatically endorsed as a global standard. Even though political leaders cannot agree on many things, one thing can be said if this approach is adopted on a worldwide basis: raising revenue without raising taxes is politically tenable.