

July 2016

**Statement on current European Commission initiatives
concerning tax transparency on the one hand and
the single market strategy on the other hand**

The European Tax Adviser Federation – **ETAF** is the European umbrella organisation for regulated tax professionals. It represents **more than 230.000 tax professionals from Germany, France and Italy.**

The founding members of ETAF are the Bundessteuerberaterkammer (BStBK, Germany), the Deutscher Steuerberaterverband (DStV, Germany), the Conseil Supérieur de l'Ordre des Experts-Comptables (CSOEC, France) and the Consiglio Nazionale dei dottori Commercialisti e Degli Esperti Contabili (CNDCEC, Italy).

ETAF's main mission is to represent the tax practitioners at European level in working closely with the European institutions in order to promote good legislation in tax matters, contribute to fight abuse and illegal acts and enhance certainty and transparency.

ETAF supports the Commission's ongoing work on tax transparency. As regards corporate taxation, **98% of our members typically represent SME's** who pay their fair share of tax and do not come into any contact with the questioned international tax avoidance schemes. ETAF is seriously considering how the regulated tax professionals in the EU can make a significant and valuable contribution to the stability of our tax systems.

Currently **the European Commission** is pursuing **two objectives: upgrading the single market and moving forward on tax transparency.** ETAF is concerned that some provisions of the single market strategy with respect to professional regulations would be contradictory to its objectives of increasing responsibilities of tax advisers.

On the one hand, in the wake of the "LuxLeaks" and the "Panama Papers", tax advisers have moved into the particular attention of the European Commission with regard to the

objective of combating tax evasion. In this respect, DG TAXUD most recently announced its intention to **“improve the oversight over tax advisers”** and to **“shed more light on their activities”**. The European Parliament called on the Commission to develop a “Union Code of Conduct for all advising services” including a “Union incompatibility regime for tax advisers”, demanded a “concrete Union regulatory framework for sanctions against tax advisers proven to be involved in illegal, harmful or wrongful activities with blacklisted jurisdictions”, called for “effective, proportionate and dissuasive sanctions, including criminal sanctions, on company managers involved in tax evasion, as well as the possibility of revoking business licences for professionals and companies proved to be involved in designing, advising on the use of, or utilising illegal tax planning and evasion schemes” and requested that the Commission “explore the feasibility of introducing proportional financial liability for tax advisers engaged in unlawful tax practices”. Hence, when it comes to tax transparency and combating tax evasion, tax advisers are expected to **assume responsibility**, to **comply** with the laws and regulations and to **follow ethical principles and values**.

ETAF members support the tax transparency initiatives. The fact that ETAF members are regulated professions is a guarantee of high level responsibility and quality.

On the other hand, the European Commission intends **to improve the single market by ensuring that unjustified regulation is not creating unnecessary barriers for professionals**. In these current works, DG GROW is particularly targeting on “business services” whereby tax advisers and accounting services are, among others, explicitly identified as the affected professions. DG GROW is addressing highly sensitive topics such as reserved activities, shareholding requirements, voting rights, title protection, membership in chambers including the oversight over tax advisers, and is asking the member states to get rid of those regulations which it considers as “unnecessary”.

If we have a closer look on those policies, it is highly noteworthy that **the regulations which DG GROW is intending to lower or to abolish are precisely the ones that guarantee quality, independence, confidence** in the profession and **legal certainty** for companies. Hence, **those regulations are contributing to the achievement of the objectives of the tax transparency initiatives**.

In the Member States where the profession is regulated, tax advisers are already **obliged by the law** to exercise their profession in **full accordance** with all applicable laws and regulations. Furthermore, the law imposes specific obligations on tax advisers such as to exercise their profession **conscientiously** and in **due care**. In addition, ethical codes of conduct for tax professionals do already exist in some member states.

Rules on shareholding requirements and voting rights guarantee the independence of a tax adviser. In some member states, for example, it is not allowed for a bank or an insurance company to hold shares of a tax adviser firm, and for a very good reason: This would obviously hamper the independence of the rendered consultancy services and could prove detrimental for the client. The same is true for the holding of voting rights. Reserved activities protect from incorrect advice and the professional chambers as the competent supervisory bodies ensure the **professional oversight** over tax advisers.

In this interplay between those two objectives envisaged by the European Commission, certain **existing regulations** are worth being regarded as appropriate means to ensure **responsibility, compliance** and **ethical behaviour** of tax advisers.

Correspondingly, the Court of Justice of the European Union (ECJ) recently observed that “the **prevention of tax evasion** and the protection of consumers, which ... constitute objectives pursued by the legislation ... **are among the objectives which may be regarded as overriding reasons in the public interest** capable of justifying a restriction of the freedom to provide services” (case C-342/14, “X-Steuerberatungsgesellschaft, recital 53).

We therefore call on the European Commission to include the above mentioned arguments into its deliberations on the upcoming policy initiatives involved. ETAF members remain at the European Commission’s disposal to contribute to its works.
