Strengthening Tax Compliance in Europe

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The contribution of tax advisers to a

better Tax Compliance in Europe

I. Background

The European Commission plans to publish an "Action Plan to fight tax evasion and make taxation simple and easy"[1] in June 2020. This action plan will include initiatives to combat tax fraud, to **facilitate compliance with the tax rules** and to further exploit new technical developments and the increasing digitalisation in order to achieve these goals.

The European Parliament, for its part, plans to set up a permanent ECON sub-committee on tax and financial crimes.

Both institutions agree on the overriding objective: **Tax Compliance** in Europe has to be improved in the long term. Tax evasion is a criminal offence which is contrary to the general interest of the Union and therefore has to be combated with determination.

Due to tax evasion, Member States of the European Union lose billions of euros every year. According to a study commissioned by the S&D group in the European Parliament, these losses amounted to 825 billion EUR in 2015 alone[2].

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[1] Working title in the Roadmap of the Commission of 4 March 2019: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12233-Action-Plan-on-fight-against-tax-fraud- (EN-Version)

[2] "The European Tax Gap report for the Socialists and Democrats Group in the European Parliament" Richard Murphy Director of Tax Research LLPi Professor of Practice in International Political Economy, City, University of London; https://www.socialistsanddemocrats.eu/sites/default/files/2019-01/the_european_tax_gap_en_190123.pdf

As part of an overall solution, the European Tax Adviser Federation (ETAF) would like to draw attention to the specific **function of tax advisers** in Europe, because this profession is situated directly at the **interface** between the taxpayers and the respective Member State.

The economic operators in Europe – companies, organisations, private persons, consumers etc. – generally use the services of a tax adviser **in order to fulfil their tax obligations**. This is, on the one hand, widely due to the highly complicated and impenetrable nature of the tax laws in Europe, varying from Member State to Member State. On the other hand, it takes away the administrative burden from the economic operators and enables them to pursue their respective core business while relying on the legally secure fulfilment of their tax matters.

Tax advisers work very closely with their clients. They advise, explain and substantiate vis-à-vis the taxpayers why and which amount of taxes has to be paid. As a result, the profession of tax advisers makes an important contribution to **tax acceptance** and thus helps **strengthening the tax compliance** in our societies.

For a Member State, tax advisers can – and should – assume an important “bridging function” between the taxpayers and the tax authorities and hence make a significant contribution to **securing the tax revenues of the Member State**. The high quality of tax adviser’s services and their best possible education and training do also play a very important role. It does not serve the tax compliance if tax advice is done by service providers who do not have the required qualifications for it. Only accurate and error-free tax declarations which fully comply with the tax rules can reduce the level of tax losses for Member States.

But such a “bridging function” can only work if tax advisers <u>themselves</u> <u>are obliged to comply by law</u>. This is however far from being the case in all Member States. At this point, a European solution could start.

<u>II. Problem</u>

The profession of a tax adviser is not harmonized within the European Union. Professional regulations, if existing at all, differ widely from one Member State to another. The spectrum ranges from full liberalization in some Member States, e.g. in the Netherlands, up to a high level of regulation in other Member States, e.g. in Germany, France and Austria. In the Member States in which the profession is regulated, tax advisers are *already* <u>legally obliged</u> to practice their profession conscientiously, diligently and *in full compliance with all applicable (tax) laws*.

In addition, deregulation measures aiming at liberalising the market are a dangerous gateway capable of affecting the quality of tax advice and undermining the independence of tax advisers. The result can be a framework that is detrimental to fiscal honesty and the protection of public interest. Such an environment is not suitable for the promotion of more responsibility towards the common interest, increasing tax transparency and strengthening tax compliance. These market policies should therefore be contrary to the tax policy objectives of the European Union.

III. Solution

An approach at European level could be to legally **oblige tax advisers** themselves to fully comply with all applicable (tax) laws. In practice, this would mean they would be obliged to ask their clients to act in full compliance with the law and they would need to reject any calls for "non-compliance" of their clients or even resign from their mandate in such a case.

Such an EU-wide **legal obligation of tax compliance for tax advisers** could make a significant contribution towards avoiding tax evasion and securing tax revenues. Existing regulations in different Member States and gained experience in the sense of "best practice" are a valuable source for this. In the ETAF Member States, tax professionals are obliged to respect a binding and enforceable professional code and are subject to a sanction system in the case of infringements. In this context, the members of the ETAF have jointly signed the “Charter of Regulated European Tax Advisers”, which represents a common EU regulatory framework for tax professionals.

Existing professional regulations ensuring the quality of tax adviser’s services, promoting ethical behaviour and guaranteeing ongoing training and further education should be recognized throughout Europe. The introduction of such standards across Europe would contribute to a high level of tax compliance, responsibility and quality of tax adviser’s services while strengthening the commitment of tax advisers towards the public interest. The following aspects of professional law can strengthen the tax compliance under consideration of self-administration and professional supervision:

- The obligation to comply and the high quality of tax advice guarantee the **correct application of tax law** and secure the tax revenues of the State.
- The system of **reserved activities** protects companies, organisations and consumers from the consequences of poor advice given by less qualified people. It therefore helps the tax payers to properly fulfil their tax obligations.
- A **high level of qualification** for tax advisers ensures high-quality tax advice. The requirements for their training and further professional development must not be reduced so that the high quality of their services can be maintained. Ultimately, a continuous professional training of tax advisers has a positive effect on the tax compliance of the clients.

- The shareholding requirements guarantee the **independence** of tax advisers and prevent them from becoming an extended arm of insurance companies or fund providers. This ensures that tax advisers work *for* their clients and *not* in the interests of external investors. Ultimately, this also serves to ensure the correct and uninfluenced application of the fiscal law.
- A further suitable instrument to enhance tax compliance could be a general **prohibition of the abuse of existing legal tax possibilities** for the purpose of tax avoidance or tax reduction, combined with a respective obligation of a tax adviser to inform the client about this rule.

Conclusion:

In each Member State of the EU, the profession of tax advisers should be granted a responsible "bridging function" between the taxpayers and the respective Member State. An EU-wide compliance obligation of tax advisers would sustainably contribute to a better tax compliance of taxpayers.