European Tax Adviser Federation AISBL – ETAF | Rue Montoyer 25 | B-1000 Brussels

ETAF
European Tax Adviser Federation

Brussels, 15 September 2022

<u>Subject</u>: Study on the *“Regulation of Intermediaries, including tax advisers, in the EU/Member States and best practices from inside and outside the EU”*

Dear MEP,

I am writing to you concerning the study on the *“Regulation of Intermediaries, including tax advisers, in the EU/Member States and best practices from inside and outside the EU”*, requested by the FISC subcommittee of the European Parliament and published beginning of August.

From the European Tax Adviser Federation (ETAF)’s view, the study shows some deficits in terms of quality and representativity. Let me briefly explain why.

First of all, the chosen scope raises many questions. According to the authors, the overall aim of the study is to provide an *“overview of the regulatory framework for tax intermediaries within the EU”* (p.8). However, the study is based on only four EU countries (Ireland, Germany, Italy and the Netherlands) and one non-EU country (the United Kingdom), which is not representative for the EU

Secondly, the choice of these countries is not justified enough from our point of view. ETAF doesn’t share the assessment according to which there are *“strong regulations in all five countries”* (p.52). Of the five countries taken as examples, three of them (United Kingdom, Ireland and the Netherlands) have the same regulatory culture. Only one (Germany) has a genuine regulation enacted by law while all the others only have voluntary codes of conduct issued by professional bodies. This gives the impression that the study puts all kinds of regulations on an equal footing.

The authors themselves acknowledge that the scope is limited and they advise to carry out a comprehensive study of all EU countries. *“These countries are geographically proximate and relatively similar in terms of economic and social conditions. A comprehensive comparative study will include dissimilar countries and therefore most likely reveal additional areas of concern”* (p.51), they explain. While we agree with this conclusion, we wonder why such a limited study has been carried out in the first place.

Furthermore, the arguments are not objective and the lack of concrete conclusions and recommendations is striking. *“The impact of specific tax intermediary regulation on reducing tax evasion and undesirable tax avoidance remains unclear and there is insufficient data available to enable the identification of best practices on the various forms of regulation currently in place”* (p.9), the authors write before suggesting a long list of new research to be carried out.

It is also to be noted that the potential remedies recommended are only taken from previous research with no thorough analysis, questioning again the general added value of this study.

Despite these shortcomings, the study has the merit to re-launch the academic reflexion in this area. ETAF particularly welcomes:

- the recognition of the overall positive role of tax advisers for the economy and the society (p.8);
- the addition of the word *"undesirable"* before the term *"tax avoidance"* to *"acknowledge the importance of national context in determining what forms of activity require specific regulation"* (p.10);
- the acknowledgment of the "*important role"* of professional bodies *"in setting and maintaining professional standards among members"* (p.36).
- the conclusion that *"given that the majority of promoters of tax avoidance schemes are specialist tax advisers often outside the ambit of the professional bodies, it might seem counter-intuitive to continue to increase the legislative burden of law-abiding intermediaries without tightening entry to the tax advisory market"* (p.50);
- the need to identify the small pool of advisers who enable undesirable tax avoidance and to impose relevant sanctions on them while not interfering with the work of non-enablers (p.9).

As the authors rightly point out in the conclusion, it is *"important for stakeholders to continue to work together, build and enhance mutual trust and try to find the right balance so that regulation is a positive force in securing a well-functioning, fair and user-friendly tax system"* (p.52).

In that regard and as ETAF is the only organisation representing regulated tax professions at EU level, I do believe that we are well placed to provide MEPs and academics with great inputs on how the regulation of the tax profession is working in the ETAF Member States (France, Germany, Belgium, Hungary, Romania, Austria) and on the benefits it has for these States.

ETAF would like to recall the importance of such a study, especially at a time when the European Commission itself is reflecting on how to better tackle the role of enablers who facilitate tax evasion and aggressive tax planning in the European Union. It is crucial not to leave this work unfinished and unconclusive.

For all the above-mentioned reasons, ETAF reiterates its offer for expertise for any future parliamentary work on this topic. We look forward to discussing this important topic with you and are at your disposal for further exchange on this topic.

Sincerely yours,

Philippe Arraou, ETAF President