Company taxation: Commission adopts Code of Conduct concerning transfer pricing

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(see also MEMO/05/414)

The European Commission has adopted a proposal for a Code of Conduct that would standardise the documentation that multinationals must provide to tax authorities on their pricing of cross-border intra-group transactions ("transfer pricing" documentation). The proposal, that has been developed on the basis of work in the EU Joint Transfer Pricing Forum (see IP/02/1105), would reduce significantly the tax complications that companies face when trading with associated enterprises in other Member States. Companies frequently complain at present about the onerous and divergent documentation obligations with which they have to comply in such cases in the different Member States involved. The Code would be a political commitment and would not affect the Member States' rights and obligations or the respective spheres of competence of the Member States and the Community.

"This Code will ensure greater certainty and reduced compliance costs and risks of documentation-related penalties for multinationals" said European Taxation and Customs Commissioner László Kovács. "The EU Joint Transfer Pricing Forum is once again helping to remove cross-border tax problems and contributing to a competitive internal market."

The Commission proposal is for a Code of Conduct for new standardised and partially centralised "EU Transfer Pricing Documentation".

The documentation that multinational enterprises would have to file with tax administrations in order to report on their pricing for cross-border intra-group activities would consist of two main parts:

One set of documentation (the "masterfile") should provide a “blue print” of the company and its transfer pricing system that would be relevant and available to all EU Member States concerned. It would provide information such as a general description of the business and business strategy, of the transactions involving associated enterprises in the EU and of the enterprise's transfer pricing policy. Second, a set of standardised documentation ("country-specific documentation") for each of the specific Member States concerned with the intra-group transactions. This documentation would include information such as amounts of transaction flows within that country, contractual terms and the particular transfer pricing methods used and would only be available to the relevant Member State.

The EU Transfer Pricing Documentation should improve both the quality of the information provided by businesses and taxpayers' compliance with transfer pricing documentation requirements in EU Member States. It should thus reduce the risk for businesses of double taxation and exposure to documentation related penalties. At the same time it should lead to increased transparency regarding the group's transfer prices and thus facilitate the work of tax administrations.
The EU TPD would be optional for businesses. It would cover all group entities resident in the EU, including transactions between group entities resident in the EU and associated enterprises outside the EU.

The Code of Conduct is presented in the context of a Commission Communication on the work achieved by the EU Joint Transfer Pricing Forum in the field of business taxation from January 2004 to May 2005.

Member States are already operating another Code of Conduct that was developed in the Forum (see IP/04/1447). That first Code of Conduct ensures a more effective and uniform application by EU Member States of the 1990 Arbitration Convention (90/436/EEC) that is designed to deal with the double taxation that can arise in transfer pricing cases.

The Commission Communication, the Forum's activity and the Code are available on the Europa website at:


For further information on the work of the EU Joint Transfer Pricing Forum see: