[New EC Anti-Tax Avoidance Package: not the end of the fight against corporate tax avoidance]

(28 January 2016) Today’s new Anti-Tax Avoidance Package (ATAP) will potentially contribute to making multinational companies pay more tax, but not yet all the tax they owe.

The lengthy package consists of two directives. One implements the OECD’s BEPS action plan at EU level, to pave the way for a common consolidated corporate tax base in the autumn. The other requires the automatic exchange of information by large companies limited to tax administrations (country-by-country tax reporting). It includes non-binding recommendations on tax havens outside the EU and on good tax governance in developing countries that rely even more on corporate tax revenues.

It will take more time for a full evaluation of its exact effect on corporate tax avoidance, which costs the global economy up to € 240 billion every year, according to recent conservative official estimates.

General Secretary of EPSU, Jan Willem Goudriaan, said: ‘*We welcome that the Commission continues on its tax regulatory path. Governments talk a lot about tax evasion but do very little to stop profitable companies dodging the tax payments we need to fund the welfare state. The UK’s recent shocking tax deal with Google and the new Irish “knowledge box” are good illustrations of leaders’ complicity with the wealthy tax dodgers.*"

“*However the package fails to live up to our calls to take tax reform beyond the OECD’s weak action plan. In some cases its recommendations are even weaker than those of the OECD. The Commission rightly condemns the shifting of profits to low tax regimes via excessive interest deductions or bogus intellectual property regimes, as in the case of McDonald’s. However, some proposals are not helpful.*"

“*The directive on country-by-country reporting (CBCR) by companies is too weak – the scope of information must be broader and be made public. The business lobby has failed to produce concrete examples of how the publication of this information would harm their business. Why wait until April to bring about transparency on corporate tax affairs? Public CBCR is key to stopping tax dodging and to* *establishing a common corporate tax base in Europe and is crucial for the survival of under-resourced tax administrations,*" added Mr Goudriaan.

On a positive note, the package recognises that many common forms of tax avoidance are wrong. The introduction of a European General Anti-Avoidance Rule to prevent situations where companies act against the actual purpose of tax law is welcomed. But the wording could be better, and it is unclear how it will be made operational in the absence of a common definition of business permanent establishment.

It is right to propose a capping of corporate interest deductions, but setting the threshold at 30 % of earnings before interest, tax, depreciation, and amortization (EBITDA), or €1 million annually, is far too high.

We welcome the Controlled Foreign Company (CFC) rules. But again the devil is in the detail, as the Commission seems to imply that tax avoidance below 40% of a country's nominal corporate tax rate is an acceptable level of tax avoidance.

"*It legitimises the fact that profitable companies can pay massively less tax than their employees*" said Nadja Salson, policy officer on tax. "*Here the European Commission fails to recognise that part of the problem is the business model of hiding behind endless chains of subsidiaries, franchises, and bogus letter box companies to avoid paying tax. In doing so the Commission keeps alive the arms-length principle that allows corporate groups to escape being treated as they should be: single entities. Given the downward trend of nominal corporate tax rates in the EU, we need to fix a common minimum corporate tax rate of at least 25 % as a priority. The Commission's proposals simply do not go far enough*.

"*On EU external strategy, we welcome the EC's renewed promise for a common list of tax havens, but this must be supported by deterring sanctions. On developing countries, it is common sense to call for better resourced tax administrations and the same should apply to EU tax administrations that continue suffering from austerity measures. But the EC must also change its external trade policy if it is serious about sustainable development, which must be based on progressive taxation and sufficiently funded public services*," concludes Ms Salson.

The package shows that the fight is not over until every company pays every euro of tax that it owes, like everyone else. EPSU will continue its work within the tax justice movement, with workers in tax administrations, Members of Parliament and others to improve the package.

For more information see EPSU's letter sent jointly with Oxfam and ActionAid ahead of the publication of the Package

Contact person: Nadja Salson, EPSU Policy Officer on Tax,
T: 32 2 250 10 88, Mob: 32 475 96 10 11,
nsalson@epsu.org

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