

Taxation: Council publishes an EU list of non-cooperative jurisdictions

On 5 December 2017, the Council approved and published conclusions containing an EU list of non-cooperative jurisdictions in taxation matters.

It also agreed on the further process, including on applying 'defensive' measures with regard to the listed jurisdictions.

The aim is to **promote good governance** worldwide, in order to maximise efforts to **prevent tax fraud** and tax evasion. The initiative is part of the Council's external strategy for taxation, delivering on its November 2016 conclusions that called for a list to be established by the end of 2017.

The Council's work on the list has been conducted in parallel with the OECD and in the context of the G20.

"This initiative is already proving its value, as numerous countries have worked to meet the deadline for making commitments on the basis of our criteria", said Toomas Tõniste, minister for finance of Estonia, which currently holds the Council presidency. "But it is also important that we closely monitor the implementation of commitments made by our partners around the world."

"This is **not just a one-off** process", Mr Tõniste continued. "We will **regularly review and update** the list in the years to come. Our aim is to ensure that good tax governance becomes the new norm."

The EU's list was established following **a screening and a dialogue** conducted during 2017 with a large number of third country jurisdictions. Those that appear on the list failed to take meaningful action to address deficiencies identified and did not engage in a meaningful dialogue on the basis of the EU's criteria. They made no such commitment at a high political level in time for the Council meeting.

In November 2016, the Council established criteria:

- that a jurisdiction should fulfil to be considered compliant on **tax transparency**;
- that a jurisdiction should fulfil to be considered compliant on **fair taxation**;
- that anti-BEPS (tax base erosion and profit shifting) measures are being implemented.

Work on the list started in July 2016 within the Council's working group responsible for implementing an EU code of conduct on business taxation, in coordination with its high-level working party for taxation.

During 2017 the working group, supported by the Council's secretariat, oversaw the screening, a technical dialogue with the jurisdictions concerned and an analysis of their tax systems. The Commission provided technical support to the process.

This enabled the situation in those jurisdictions to be assessed against the EU's criteria.

In October 2017 letters were sent to all jurisdictions concerned, informing them of the outcome of the work. Where necessary, a **political commitment was requested** within a specified timeframe to addressing all deficiencies identified.

Most jurisdictions chose to engage with the EU process through a constructive dialogue, and to take steps towards resolving issues identified. They have submitted in writing a firm political commitment as requested. Progress made on those commitments will be monitored as set out in the Council's conclusions.

For jurisdictions affected by natural disasters, it was agreed to put the process temporarily on hold. This refers in particular to countries affected by hurricanes during 2017. They will be asked to address the concerns identified as soon as the situation improves, with a view to resolving them by the end of 2018. By February 2018, they will be contacted to prepare the next steps.

The jurisdictions that appear on the list are strongly encouraged to make the changes requested of them. Their tax legislation, policies and administrative practices result or may result in a loss of revenues for the EU's member states.

Pending such changes, the EU and the member states **could apply defensive measures**. Including both taxation measures and

measures outside the field of taxation, these measures would be aimed at preventing the erosion of the EU member states' tax bases.

- [December 2017 Council conclusions on the list of non-cooperative jurisdictions in taxation matters](#)
- [November 2016 conclusions on the establishment of a list of non-cooperative jurisdictions](#)
- [Code of conduct group on business taxation](#)
- [OECD webpage on BEPS](#)

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