

## **G-8 / G-20 / OECD DOCUMENTS (EXCERPTS)**

- **G-8 Lough Erne Declaration**

- Point 2: States should change the rules that allow companies to shift profits across borders to avoid taxes and multinational companies should notify the tax authorities to which taxes apply in that country.
- Point 3: Companies should know who is the beneficial owner and the tax authorities and public authorities should have easy access to this information.

- **G-20 / OECD: Base Erosion and Profit Shifting (BEPS) Project (2014 - ongoing)**

- Action plan contains 15 key actions which should be adopted by the states of G-20 in 2015. The first seven actions were discussed by G-20 leaders in their meeting in Australia on 15 and 16 November 2014. Public consultations on the 15 actions will only be finalised in the late summer 2015. Upon their finalisation the elaboration of future recommendations can be started which will then be subject to negotiations between OECD Member States before they will be formally adopted.
- Action 12 requires taxpayers to disclose their aggressive tax planning arrangements. It stipulates that *“a key issue in the administration of transfer pricing rules is the asymmetry of information between taxpayers and tax administrations which potentially undermines the administration of the arm’s length principle and enhances opportunities for base erosion and profit shifting.”*
- Action 13 requires development of rules which would *“include a requirement that MNE’s provide all relevant governments with needed information on their global allocation of the income, economic activity and taxes paid among countries according to a common template.”*

- **OECD Economic Surveys, United States (June 2014)**

- According to OECD data estimates of the amounts held offshore are as high as USD 1.9 trillion.

- **OECD: Behind the Corporate Veil: Using Corporate Entities for Illicit Purposes (2011)**

- Almost every economic crime involves the misuse of corporate vehicles [i.e. companies].

- **OECD: Tackling Aggressive Tax Planning Through Improved Transparency and Disclosure – Report on Disclosure Initiatives (2011)**

- Disclosure initiatives can help to fill the gap between the creation/promotion of aggressive tax planning schemes and their identification by the tax authorities. Mandatory early disclosure rules, for example, have proven to be effective in providing governments with timely, targeted and comprehensive information on aggressive tax planning schemes, thus allowing timely policy and compliance responses.“
- While audits remain a key source of relevant information, they suffer from a number of constraints as tools for the early detection of aggressive tax planning schemes, as: (i) an audit may not necessarily reveal that a taxpayer has engaged in aggressive tax planning, particularly in the case of more complex, often international, arrangements including those exploiting mismatches in the classification of entities, instruments or transfers in different countries. Reasons include the complexity of arrangements, the often difficult application of the law to these arrangements, the need to understand the intricacies of foreign law and the related workload; (ii) Where the traditional audit process does identify the use of aggressive tax planning, very often a significant time lag, which may stretch to several years, will have elapsed between the creation, promotion

or use of the scheme and its detection through the audit process; (iii) It may be difficult to establish whether an aggressive tax planning scheme in audit context is an isolated case or a more widespread phenomenon.

- The experience in several countries shows that traditional audits alone are often not sufficient to satisfy these information needs. [...] Traditional audits alone may, therefore not be a resource-effective way to obtain timely, targeted and comprehensive information on aggressive tax planning schemes, and hence may not always allow for timely and well informed tax compliance and/or tax policy responses. [...] Recognising the difficulties of relying on traditional audits alone, several countries have introduced complementary disclosure initiatives aimed at improving their capability to detect aggressive tax planning schemes.
- The underpinning of any response to address aggressive tax planning is the availability of timely, targeted and comprehensive information. The availability of information at an early stage allows the tax administration to improve risk assessment and to make efficient use of the resources available, therefore improving overall compliance.
- **OECD Report Corporate Loss Utilisation through Aggressive Tax Planning (2011)**
  - Apart from denying or limiting achievable tax advantages, countries use a number of other strategies to discourage taxpayers from engaging in tax planning. Although the disclosure and other reporting obligations is to provide tax administration with information, they also influence the taxpayer's decision on whether to engage in aggressive tax planning or not. Taxpayer alerts, notifications and wider communication strategies are also an effective tool for influencing the behaviour of taxpayers.
- **OECD: Bribery in Public Procurement: Methods, Actors and Counter Measures (2007)**
  - Slush funds are created for the collection and distribution of some huge sums of money that are required to participate in corrupt practices. [...] More sophisticated methods typically use bank accounts abroad, preferably in the offshore countries that allow non-transparent management accounts and ensure the anonymity of the ultimate owners. [...] These hidden funds, often containing vast resources, finance gray economy.
  - Mere fact that simple commercial transactions are being routed via fictitious companies in tax havens which are interposed into these transactions as intermediaries can be an indication that buying prices are inflated and selling prices reduced so that the difference can be used for an undue enrichment of an ultimate beneficial owner of such company or used as a bribe.
  - Collusion is a joint effort by potential competing suppliers to maximise their profit. Collusion in public tendering processes can involve foreign as well as domestic suppliers, and can occur with or without the presence of corruption. The most common collusive practice in public procurement is bid-rigging, in which firms coordinate their bids on procurement or project contracts. They may agree to submit common bids, thus eliminating price competition. Alternatively, firms may decide which firm will submit the lowest bid and agree to rotate in such a way that each firm wins an agreed number or value of contracts. Sub-contracting to a losing bidder may be used as a compensation mechanism.
- **OECD, Inventory of Mechanisms to Disguise Corruption in the Bidding Process in Fighting Corruption and Promoting Integrity in Public Procurement, Bueb, J.-P., Ehlermann-Cache, N. (2005)**

- In a tax haven, it is possible to quickly and easily create or dissolve legal entities or other legal structures whose effective beneficiaries are unknown (shell companies). [...] Shell companies and tax havens are thus a means of carrying out the manoeuvres [to disguise corruption in public procurement] with complete discretion and in all impunity.
- **OECD: Regulatory Policy and Behavioural Economics, Lunn, P. (2014)**
- Behaviourally informed interventions often aim to assist rather than to prohibit certain decisions, in keeping with the idea of regulatory policy as an enabler and facilitator to achieve positive outcomes.” [...] “Behavioural economics is influencing policy in a number of OECD countries, but most explicitly in the United States and the United Kingdom. [...] In other countries, the application of behavioural economics to policy is increasingly common in certain policy areas, especially pensions, tax and consumer protection. Also the European Commission has engaged in several behaviourally informed initiatives.