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REPORT

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Code of Conduct Group (Business Taxation) – Report to the Council = Endorsement

Belize's Fiscal Incentives Act (BZ003)

The following assessment was agreed by the Code of Conduct Group on 13 September 2019:

	1a	**1b**	**2a**	**2b**	**3**	**4**	**5**
Belize – Fiscal Incentive Act	?	X	?	X	X	X	X

V = harmful
X = not harmful

Explanation:

Gateway criterion - Significantly lower level of taxation:

The general income tax rate in Belize is 25%.

If the conditions of the Fiscal Incentive Act are fulfilled, the Minister will grant a tax holiday period up to 5 years (renewable up to 10 years). For highly labour intensive sectors, if the production is strictly for export, the tax holiday period may be up to 25 years.

The measure therefore provides for a significantly lower level of taxation and is potentially harmful under the Code.

Criterion 1 & 2

Any company may apply for an order under the Fiscal Incentive Act for an approved product or service activity, regardless of whether they are foreign or domestic. However, Section 4(4) of the Act provides that no order shall be granted for an enterprise whose products are destined for the domestic or CARICOM market, unless the products satisfy the rule of origin. In their reply of 21 May, Belize indicated that "*has not been applied in practice; nor has it been reflected in the Statutory Instruments, which outlines the conditions of an approved enterprise under the Fiscal Incentive Act*".

Belize further indicated that they intend to remove this particular Section from the Fiscal Incentive Act.

On the *de facto* application of this regime, Belize has provided data indicating that only 24 companies currently benefit from the Fiscal Incentive Act. Of these companies, around 2/3 are purely locally owned, 10% are mixed ownership and 25% are foreign owned.

The activities carried out by these entities are:

- 12 companies in the tourism sector (construction and operation of resorts, renewable energy supply to resorts, tour operators, vehicle rental);
- 1 company in the agroprocessing sector (production of pet food);
- 7 companies in the light manufacturing sector (production of mattresses, soft drinks, paper, water, plastic bottles, chlorox);
- 3 companies in the transportation sector (port facility, local air transport);
- 1 company in the medical sector (private hospital).

The activities carried out by these companies constitute another indication that Section 4(4) of the Act, prohibiting business with domestic market, is not applied in practice.

Criterion 3

The companies may apply to the Minister with information on:

- the nature of the enterprise and the contribution it is expected to make to the economy;
- the estimated amount, purpose and source of the capital to be expanded initially and annually;
- where applicable, particulars necessary to determine the level of exports, foreign exchange earnings and foreign exchange savings;
- the number of persons to be employed and the condition of service;
- information that the enterprise is adequately financed and provided with effective and competent management.

According to the 2018 guidance on criterion 3 of the Code of Conduct, when (i) a regime grants tax benefits to activities such as manufacturing or production, (ii) the activities necessary to benefit from the regime do not include any highly mobile activities or (iii) the benefits of the regime are directly linked to investment in tangible assets, the regime does not *a priori* raise concerns under criterion 3 of the Code of Conduct.

Considering the data provided by Belize together with the types of activities allowed in the Fiscal Incentive Act (see Criterion 1&2 above), it was agreed that the regime is not harmful under criterion 3.

Criterion 4

The provisions of the Fiscal Incentive Act do not contain such elements that would be relevant from the point of view of internationally accepted principles as referred to in criterion 4 of paragraph B of the Code.

Criterion 5

Every order made under the Fiscal Incentive Act is laid before the National Assembly for a possible negative resolution. Before making an order, the Minister publishes a notice in the Gazette, so that people can object. All the conditions for granting an order are clearly laid in the legislation and applicable Statutory Instrument.

Overall Assessment

In the light of the additional information provided by Belize on the practical application of the legislation, along with the supporting data on the type of activities carried out by the companies benefiting from the regime, this regime does not seem to raise concerns. Moreover, the *de lege* ring fencing provision, which is not applied to the companies for the application of the regime, is in the process of being amended.

Therefore, the COCG agreed to consider the regime as “not harmful” and to monitor the abrogation of Section 4(4) of the Act to bring it in line with the *de facto* application of the regime by Belize authorities.