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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Code of Conduct Group (Business Taxation)
Subject: Nauru's Foreign source income exemption (NR001)
- Final description and assessment

ROLLBACK REVIEW PROCESS

On 5 December 2019, Nauru received a letter from the Chair of the Code of Conduct Group (COCG) conveying the message that the Group had identified a foreign-source income exemption (FSIE) regime in Nauru and invited the authorities to cooperate with the Commission Services to discuss the features of the regime. The decision of the COCG had considered the legislation as in force at that time, i.e. in December 2019.

Nauru's tax on business income (the Business Tax Act 2016 – BTA) could imply that revenue earned abroad benefited from an exemption from tax in Nauru and hence was subject to a significantly lower effective level of taxation than domestically-sourced revenue. Since the rules covered only profits generated abroad, Nauru was considered to apply an FSIE regime.

With effect from 1 January 2021, and following contacts with the Commission Services on the above FSIE regime, Nauru amended the BTA through the Business Tax (Amendment) Act 2020, No. 27/2020 to address potential concerns by Member States on the regime in question.

Following these recent amendments, no exemptions for foreign-source income seemed to arise from the BTA in Nauru.

Conclusion

Following the 2021 amendment to the Business Tax Act, the Code of Conduct Group approved the rollback of Nauru’s FSIE regime. This conclusion was endorsed by the Council in October 2021.

