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REPORT

From: General Secretariat of the Council
To: Delegations
Subject: Code of Conduct Group (Business Taxation)
- Report to the Council

Poland's Co-operative compliance programme for large taxpayers (PL014)

I. Background

1. In 2020, the Code of Conduct Group decided to put the use of the recently introduced Polish CCP under monitoring because the taxpayers having concluded a CCP could ask for a ruling regarding the non-application of the general anti-abuse rules (GAAR).
2. Poland was thus invited to provide data with regard to the overall number of taxpayers in a CCP and whether any rulings regarding the non-application of the GAAR have been granted.
3. We recall that the Polish CCP can apply to eligible taxpayers that have an annual turnover of more EUR 50 million. There were 2 700 eligible taxpayers, but the Polish CCP was implemented in a staged manner, being first open to only 300 taxpayers.

II. Preliminary assessment

4. The monitoring concerns the tax year 2021. Poland provided the required data. In 2021, no taxpayer entered a CCP agreement. This is due to the fact that prior to concluding such an agreement, the taxpayer having expressed its interest, is subject to an audit by the tax administration.

5. Poland already gave preliminary data for the subsequent year, which indicates that as of end September 2023, only 10 taxpayers concluded a CCP (from the first 300 taxpayers selected). Another seven preliminary audits are being conducted to allow seven more entities the conclusion of a cooperation agreement. The initial audit for one company has been completed and a date has been set for signing the contract. Two companies have withdrawn their application during the tax audit. Please note that joining the cooperative compliance program in Poland is voluntary, and the taxpayer may withdraw at any time.
6. In light of the absence of use of the CCP in 2021, it is Commission services view that the Polish CCP measure has not affected in a significant way business location in the EU.
7. Preliminary data indicates that until the tax year 2022 included, only 10 taxpayers have concluded such CCP (and for another 7 preliminary audits are ongoing).

III. Follow-up:

- i. The Group agreed with the preliminary conclusion that the PL014 CCP regime does not seem to have affected in a significant way the business location among the Member States.
- ii. The Group agreed that monitoring should continue.

Annex: Poland – PL014 - Co-operative compliance programme for large taxpayers [2020 CoCG decision]

Poland - PL014	2021	2022/2023 Data as of the end of 09.2023
The number of qualifying taxpayers;	2700	
the number of taxpayers having entered a CC agreement;	0	10
How many of the taxpayers having entered a CC agreement were residents and how many were non-residents (domestic PE of foreign taxpayers);	0	
Within the resident taxpayers, how many had final Polish shareholder(s) and how many had final foreign shareholder(s);	0	
The overall number of taxpayers in a CC agreement having concluded any of the tax agreements (with the number of tax rulings, APAs or safeguarding opinions on the non-application of the GAAR);	0	

How many of the taxpayers having concluded any of the tax rulings were residents and how many were non-residents (domestic PE of foreign taxpayers);	0	
The number of taxpayers having received a safeguarding opinion on the non-application of the GAAR;	0	
How many of such taxpayers were domestic owned (final Polish shareholder) and how many were foreign owned (final foreign shareholder);	0	
In respect of what type of transaction/ arrangements have the safeguarding opinions been issued;	0	
What were the amounts involved by those arrangements	not applicable	
Any other relevant data		29.03.2022 the first CCA was concluded