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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Code of Conduct Group (Business Taxation)
Subject:	(Draft) Progress Report by the Code of Conduct Group (Business Taxation) to the ECOFIN Council of December 2018 - Annex: Palau's assessment under criterion 2.2

Delegations will find attached a document in view of the meeting of the Code of Conduct Group (Business Taxation) on 15 November 2018.

Palau's assessment under criterion 2.2

The following assessment was agreed by the Code of Conduct Group on 24 July 2018:

* * *

	1a	1b	2a	2b	3	4	5
Palau	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<p><i>Criterion 2.2: "The jurisdiction should not facilitate offshore structures or arrangements aimed at attracting profits which do not reflect real economic activity in the jurisdiction"</i></p> <p><i>In light of the assessment made under the Code criteria applied by analogy, the tax system of Palau should be considered out of scope of criterion 2.2 .</i></p> <p><i>Based on the data provided, i.e.</i></p> <ul style="list-style-type: none"> <i>small economy (2380 companies) with a very small financial sector (46 companies in the financial and insurance sectors of which only 5 are licensed banks with revenues accounting for a minor portion of the GDP)</i> <i>modest links with cross-border activities (247 companies – 10% - with one or more foreign investor and no companies registered in Palau conducting business elsewhere, the main sectors of activities being wholesale and retail trade, transportation and storage, accommodation and food service)</i> <i>application of a form of general taxation on business income (i.e. a 4% tax on gross revenues)</i> <p><i>there is a very limited risk (if any) of "offshore structures and arrangements aimed at attracting profits which do not reflect real economic activity in the jurisdiction."</i></p>						<p>Overall:</p> <p>Out of scope</p>	

Explanation

Absence of a corporate tax system or applying a nominal corporate tax rate equal to zero or almost zero:

In this respect, where criterion 2.1 is inapplicable solely due to the fact that the jurisdiction concerned does not meet the gateway criterion under Paragraph B of the Code of Conduct, because of the "absence of a corporate tax system or applying a nominal corporate tax rate equal to zero or almost zero", then the five factors identified in paragraph B of the Code of Conduct should be applied by analogy to assess whether the criterion 2.2 has been met.

Relevant questions (Q 1.2)

Palau applies a 4% tax on gross revenues (GRT) which applies to all the businesses. Given the very small economy, the limited and domestic nature of the financial sector and the absence of significant offshore structures and activities it is suggested that the gateway criterion is not met.

Criterion 1:

“whether advantages are accorded only to non-residents or in respect of transactions carried out with non-residents”

Relevant questions (Q 2.1, Q 2.2, Q 2.3, Q 1.1, Q 1.2, Q 1.5, Q 1.8,)

N/A

Criterion 2:

“whether advantages are ring-fenced from the domestic market, so they do not affect the national tax base”

Relevant questions (Q 2.1, Q 2.2, Q 2.3, Q 1.1, Q 1.2, Q 1.5, Q 1.8,)

N/A

Criterion 3:

“whether advantages are granted even without any real economic activity and substantial economic presence within the jurisdiction offering such tax advantages”

Relevant questions (Q 1.1, Q 1.7, Q 1.9, Q 2.4, Q 2.5, Q 2.6, Q 2.7, Q 2.8)

N/A

Criterion 4:

“whether the rules for profit determination in respect of activities within a multinational group of companies departs from internationally accepted principles, notably the rules agreed upon within the OECD”

Relevant questions (Q 2.9, Q 2.10, Q 2.11, Q 2.12)

N/A

Criterion 5:

“whether the features of the tax system lack transparency, including where legal provisions are relaxed at administrative level in a non-transparent way”

Relevant questions (Q 2.13, Q 2.14, Q 2.15, Q 2.16)

N/A