

How to cope with tax havens ?

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How to cope with tax havens ?

- ☐ From the 1998 OECD initiative to the financial and economic crisis
 - ☐ G20 meeting
 - ☐ A momentum ?
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The 1998 OECD initiative

- Context: « concerns » about « tax degradation » expressed by OECD large economies, directed against
 - Tax havens
 - Harmful preferential tax regimes in OECD countries
 - Impedements to exchange of information
 - « *Harmful tax competition: an emerging global issue* »
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The 1998 OECD initiative

- ☐ *Harmful tax competition: an emerging global issue »*
 - Includes criteria for the identification of tax havens
 - ☐ *No or very low tax on the relevant incomes*
 - ☐ *Absence of effective exchange of information*
 - ☐ *Absence of transparency*
 - ☐ *Absence of substantial activity*
 - Recommendations
 - ☐ Domestic tax policy
 - ☐ Treaty provisions (bilateral)
 - ☐ Multilateral approach: The Forum on harmful tax practices
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The 1998 OECD initiative: follow-up

☐ From 1998 to 2000

- Face to face meetings with jurisdictions that could be considered as tax havens
 - The 2000 report
 - ☐ Includes a list of 33 tax havens
 - ☐ Includes a list of defensive measures for a common approach against uncooperative tax havens, to be implemented starting from 31 July 2001
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The 1998 OECD initiative: follow-up

- The 2000 report – List of defensive measures
 - To disallow deductions related to transactions with uncooperative tax havens (UTH)
 - To require comprehensive information reporting rules for transactions involving UTH
 - To consider the adoption of CFC rules or equivalent rules
 - To deny any exceptions to the application of penalties for transactions with UTH
 - To deny the availability of imputation or exemption with regard to distributions that are sourced from UTH
 - To impose withholding taxes on payments to UTH
 - (...)
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The 1998 OECD initiative: follow-up

- ❑ Events in the US
 - ❑ New tax policy stance
 - Focus on transparency and exchange of information
 - Away from the multilateral approach, back to bilateral
 - Strong US opposition to coordinated defensive measures
 - ❑ Strong pressure against the use of bank secrecy in civil and criminal tax matters
 - ❑ On the UTH issue, no political will to be more proactive
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G20 meeting

□ OECD, 1998

- Intensive preliminary work
- Clear criteria
- Face to face meetings with jurisdictions
- Consensus at the OECD

□ G20, 2009

- Some preliminary work
 - Criteria unclear, the focus in ONLY on exchange of information
 - No consultations
 - No consensus at the OECD
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The right time to cope with tax havens ?

- ❑ A clear distinction has to be made between
 - Impediments to exchange of information (B, L, CH)
 - Tax havens
 - ❑ Identification of tax havens: back the OECD (2000) list and process, with update
 - ❑ Horizontal approach (tax policy, financial regulations)
 - ❑ We have to rely on the progress on exchange of information, including political commitments from tax havens
 - ❑ We need a stick: back to the OECD(2000) coordinated approach for defensive measures
 - ❑ What about the carrot ?
 - ❑ MULTILATERAL
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The right time to cope with tax havens ?

- We just need..
 - A sound base
 - A multilateral approach
 - Political will
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