

TAX BRIEFING: Alert

## European Commission to Introduce New Reporting Requirements for Intermediaries

On 21 June 2017, the European Commission proposed new reporting requirements for intermediaries - including lawyers, consultants, tax advisors, credit institutions and accountants - for aggressive tax planning schemes designed or proposed to their clients.

### In This Issue

#### ■ New Transparency Rules for Tax Planning Intermediaries

1. On 21 June 2017, the European Commission proposed new transparency rules for intermediaries, including lawyers, consultants, tax advisors, credit institutions and accountants, who promote aggressive tax planning schemes. The proposed measures include reporting requirements by the intermediaries for cross-border tax planning arrangements which they either design or promote. Arrangements which must be reported are those with any of the features or hallmarks defined by the proposed Directive, including arrangements which:
  - a. comprise cross-border payments to a recipient resident in a no-tax country;
  - b. comprise a jurisdiction with inadequate or weakly enforced anti-money laundering legislation;
  - c. are set up to avoid reporting income as required under EU transparency rules;
  - d. circumvent EU information exchange requirements for tax rulings;
  - e. have a direct correlation between the fee charged by the intermediary and amounts the taxpayer will save in tax avoidance;
  - f. ensure that the same asset benefits from depreciation rules in more than one country;
  - g. enable the same income to benefit from tax relief in more than one jurisdiction; and
  - h. do not respect EU or international transfer pricing guidelines.
2. Member States must ensure that penalties will act as a deterrent for the intermediaries that design and promote aggressive tax planning schemes.
3. The intermediaries will have to report to their tax authorities within 5 days of giving the arrangement to their client. Moreover, the Member States will have to communicate this information to all other Member States on a quarterly basis. For this purpose a centralized database will be created.
4. The new reporting requirements for intermediaries will likely apply from 1 January 2019.

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