

# Mandatory disclosure and naming and shaming

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# 1. Mandatory disclosure

- ❑ BEPS Action 12: Mandatory disclosure is not a minimum standard. However, some (very few) countries are introducing rules to implement mandatory disclosure.
- ❑ EU initiative to introduce automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements in the Administrative Cooperation Directive
- ❑ Adopted on 25/05/2018, in force as of 25/06/2018
- ❑ For EU Member States: Implemented by 31/12/2019 and automatic exchange to take place as of 1/07/2020

# 1. Statement

***DE EU EN NEDERLAND  
MOETEN AFZIEN VAN  
MANDATORY  
DISCLOSURE***

# 1. Arguments

## **NO MANDATORY DISCLOSURE**

- ✓ Equal level playing field
- ✓ Directive – Differences in implementation
- ✓ Privacy issues
- ✓ Substantive amount of reporting - Capacity of the tax administration
- ✓ Possible to prevent mandatory disclosure

## **YES MANDATORY DISCLOSURE**

- ✓ Equal treatment
- ✓ Transparency
- ✓ To prevent certain behaviour (deterrent)

# 1. Proposal

*What can be changed so that mandatory disclosure is efficient and effective to tackle aggressive tax planning arrangements?*

## Recommendations

- ✓ European Supervisory Board for Taxation (similar to the JITSIC- Joint International Taskforce on Shared Information & Collaboration Network).
- ✓ More international cooperation, thus BEPS Action 12 to be introduced as a minimum standard (political will?).

## 2. Naming and shaming

- ❑ Worldwide: Naming and shaming of companies
- ❑ The Netherlands: Proposal: Naming and shaming of tax advisors
- ❑ The Netherlands regarded as tax haven
- ❑ Naming and shaming only applicable for tax advisors that are involved in tax fraud and tax evasion.

## 2. Statement

***HET IS IN HET BELANG  
VAN NEDERLAND OM  
NAMING AND SHAMING  
VAN  
BELASTINGADVISEURS TE  
IMPLEMENTEREN***

# 2. Arguments

## YES Naming and shaming

- ✓ To take away the image of the Netherlands as a tax haven by increasing transparency.

Letter (and Annex) from the State Secretary of Finance 23/02 “*Daarbij heb ik ook de ambitie om het beeld te kantelen dat Nederland het internationale bedrijven fiscaal gemakkelijk zou maken belasting te ontwijken. Dat beeld is hardnekkig en het doet het investeringsklimaat geen goed.*”

- ✓ Only few cases.
- ✓ Good vs. bad tax advisors

## NO Naming and Shaming

- ✓ Confidentiality and professional privilege
- ✓ Unnecessary
- ✓ Proportionality and societal relevance (*maatschappelijk belang*)
- ✓ In paper only



## 2. Some solutions

To introduce naming and faming

- Companies and financial intermediaries including tax advisors must meet a code of conduct, or certain principles of transparency as reviewed by the tax administration.
- This will create a positive and more responsive environment than naming and shaming.
- How do you introduce naming and faming so that the information that can be shared does not result in profiling?

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