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Why does US Congress not take urgent action to protect US business interests?

Theo Keijzer (Dorean Global Tax Policy BV) · Monday, July 4th, 2016

The EU Commission and EU Parliament want to settle for nothing less than public country-by-country-reporting, in direct conflict with G20 BEPS adoption resolution. For many good reasons, business in Europe is opposed to such publication. I do not need to dwell on the arguments here. These are widely available.

My interest has been piqued by the lack of action by US Congress on this dossier. After all, US companies doing business in Europe, along with EU companies will be forced to publish their cbc once the EU adopts this publication requirement. This is not in the interests of US business.

On June 9, 2015 the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee wrote a letter to Treasury Secretary Lew. It says US Congress is concerned that sensitive information may need to be submitted without assurances of confidentiality by the recipient. Moreover, they indicate that an extra burden on US companies is not desirable.

On August 27, 2015, the same two Chairmen wrote again to Secretary Lew on CbCR that “we are not convinced that Treasury has the authority require US companies (... sharing the information with foreign governments).”

After an exchange of letters on the topic of State Aid between Secretary Lew and EU Commissioner Vestager early 2016, the Senate Finance Committee wrote on May 23, 2016 again to Secretary Lew. This time the letter addressed the State Aid topic and again stressed the need to protect US interests.

Given these developments I would have expected and still expect US Congress to enact a law that US companies are not allowed to publish their cbc. This would enable US companies to advise EU Commission and Parliament they will not be able to publish.

The tone of the exchange earlier between Lew and Vestager and the recent Senate Finance Committee letter is not what one would expect in a friendly exchange of views. Hence, question remains: why no action has been taken?

Consequently, I remain hopeful US Congress, in the few remaining legislative days left this term, to introduce a law forbidding US companies to publish cbc.

By doing so, US would follow the spirit of the G20/OECD BEPS conclusions whereas the EU only aims to respond to a public outcry for action but not in line with the G20 Antalya and Shanghai adoption and endorsements to go for “widespread, consistent and effective implementation” of the BEPS proposals. Moreover, the EU course of action makes the EU a less attractive place to invest. Maybe this argument has gained in importance after the Brexit vote and the coming period of EU uncertainty regarding the investment climate.

Finally, I still have hopes the EU Commission and EU Parliament sees the issue for what it is: a political hype with no positive effect for the people around the world, certainly no higher tax proceeds for the countries in the EU and outside. It is time for the true Statesman to stand up in the EU and to take charge on this dossier.

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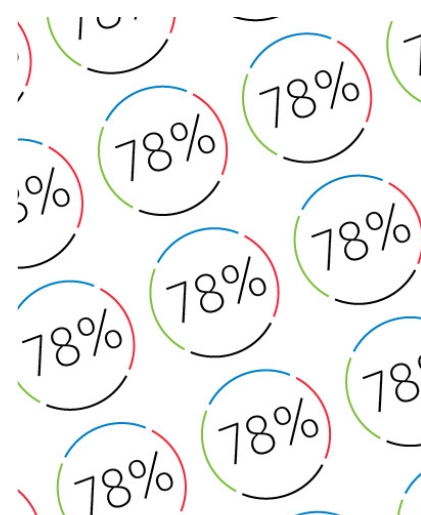
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