



ASSEMBLEIA DA REPÚBLICA

European Affairs Committee

Courtesy translation

Lisboa, 9 December 2016

Subject: Green card on taxation and financial transparency in the European Union

Dear Colleague,

The contribution adopted at the LVI COSAC stated the importance of the green card procedure as a means of improving the role of national parliaments in the European decision-making process, which is why future possible initiatives under the "green card" scheme must continue to be explored.

My speech on strengthening the role of national parliaments in the EU provided the opportunity to share the concern of the Assembleia da República regarding issues of taxation and financial transparency in the EU and the intention to draft a proposal aimed at inviting the European Commission to adopt measures leading to more equitable and fairer tax system for European citizens.

In fact, using abusive forms of tax planning makes the tax system more unfair for most companies and citizens. Greater transparency of tax law would, by providing security to companies and by clarifying the rules applying to taxpayers, stimulate investment and compliance with the law, and it could, therefore, be favourable to the goal of pursuing the Single Market based on the principles and freedoms underpinning the treaties.

Accordingly, and as with initiatives relating to Food Waste and Corporate Social Responsibility, respectively promoted by the House of Lords and the French National Assembly, I propose that we work together on a "green card" on taxation and financial transparency in the European Union, based on a resolution passed in a plenary sitting of the Assembleia da República on 21 October.

To this end, I am attaching a proposal for a "green card", and I would be very grateful to receive your comments and suggestions for changes, along with your intention to endorse this initiative, before 15 May 2017.

I firmly believe that by sharing and cooperating in this task it will be possible to achieve this objective and submit a collective, consensual and constructive proposal to the European Commission by July 2017.

I look forward to hearing from you and hope we can continue a fruitful discussion on this matter.

Regina Bastos

Chair, Committee for European Affairs



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"Green card" procedure on Taxation and Financial Transparency in the European Union

Under the "green card" (enhanced political dialogue) procedure, the signatories invite the European Commission to:

1. Promote, track and closely monitor the correct and effective implementation of the instruments and mechanisms created by Directive 2011/16/EU (DAC) on administrative cooperation in the field of taxation, as amended by Directives 2014/107/EU (DAC2), 2015/2376/EU (DAC3) and 2016/881 (DAC4), and these updates should address tax evasion more efficiently.
Taking into account the importance and urgency of the matter in question, give Member States the necessary support for the transposition of the Directives into the domestic law of each Member State, to be completed as soon as possible, specifically:
 - a. with reference to the definition of the rules on the automatic exchange of tax information on the preferential agreements granted to multinational corporations and the country-by-country reporting of profits made and taxes paid, in line with G20 and rules of the Organisation for Economic Co-operation and Development (OECD);
 - b. make it compulsory for Member States to publish granted tax benefits, as well as a summary of all tax agreements between Member States and companies.
2. Promote and monitor the effective transposition of Directive (EU) 2015/849/EU on the prevention of the use of the financial system for the purposes of money laundering, with special emphasis on identifying and checking the identity of the actual beneficiaries of financial instruments and shareholdings, similarly taking into account the proposed amendment to that Directive, presented by the European Commission, [COM(2016)450] of July 2016.
3. Considering the package of measures presented by the European Commission, [COM(2016)450, COM(2016)451 and COM(2016)452] of July 2016, promote the approval thereof in order to step up the requirements for strengthening, monitoring,



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supervising and recording all financial transactions, transfers and remittances that take place between the European Union and more favourable tax regimes, making a European entity in the sphere of central banks responsible for this. This will bolster the mechanisms for identifying the actual beneficiary set out in Regulation (EU) 2015/847:

- a. Create and publish a European list of states or jurisdictions with more favourable tax regimes to replace the provisional list presented in June 2015. This list should be linked to relevant tax legislation as a point of reference for other policies and legislation, and it should be reviewed at least every six months or upon a justified request from any jurisdiction referred to in the aforementioned list.
 - b. In cooperation with the OECD and the United Nations, strengthen the legal instruments that set the criteria for defining "tax haven", and establish that these criteria take into account:
 - i. comprehensive, transparent, robust, objectively verifiable and commonly accepted indicators that develop the principles of good governance set out by the Commission;
 - ii. concepts such as bank secrecy, registration of ownership of companies, trusts and foundations, publication of company accounts, ability to exchange information, tax administration efficiency, promotion of tax evasion, the existence of harmful legal instruments, prevention of money laundering, automatic exchange of information, the existence of bilateral treaties and international commitments to transparency and judicial cooperation.
4. Deepen all legislative and non-legislative elements contained in the Anti Tax Avoidance Package (ATAP), presented in January 2006, in cooperation with Member States and the European Parliament, to boost the level of protection against aggressive tax planning in the domestic market, thereby ensuring that companies benefiting from the single market and generating profits therein do pay income taxes in the countries where they undertake their business operations. The application of these measures should be in line with implementation of the anti-BEPS (Base Erosion and Profit Shifting) programme of the OECD in conjunction with the G20.



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5. Establish a collection of best practices for public administrations to implement policies to combat tax avoidance and fraud, enabling faster learning and reducing the costs of the agents in different Member States that have responsibility in this area.
6. Encourage and support Member States to strengthen national tax authorities at technical and human level so that they can rise to the challenges in this area.