



## **RESOLUTION OF THE COMMITTEE OF THE UFE DATED 20<sup>th</sup> SEPTEMBER 2012 ON THE SPECIFIC PROBLEMS OF REVENUE AUTHORITIES IN EUROPE**

The UFE is the one and only unionised advocacy group for officials working in tax and customs administrations in Europe. The members of the trade union, which comprise over 400,000 supporters, come from all tax and financial authorities and consequently represent all civil service careers in Europe. The delegates of the 46<sup>th</sup> congress of the UFE passed the following resolution in the framework of their meeting held on in Copenhagen on 20<sup>th</sup> September 2012:

### **The staff savings in the revenue authorities present a risk for the member states' budgets.**

Since the outbreak of the economic crisis in the year 2008 in the United States, the collection of fiscal revenue has gained crucial importance for the reduction of budget deficits and the debts of the European countries. In order to achieve this goal, the UFE assumes that it will be necessary to make available a sufficient workforce and sufficient financial means to the tax and customs administrations. But due to the cost-cutting measures, the number of posts in public administration was decreased in virtually all European countries and thus also in the revenue authorities. They secure and make available the financial means which are necessary for the cohesion policy of the states and which can be used to compensate the household expenditure. The UFE once again calls to mind the report prepared in the year 2009 under the chairmanship of the former European commissioner Laszlo Kovacs, which was addressed to the European Council and the European Parliament. This report clearly expressed that the shortage of staff and the lack of available training opportunities constituted the main reasons for the lack of efficient means on the fight against fiscal evasion and other tax offences. This is also the reason why the UFE requests that tax administration must remain top priority in all member states. In other words: sufficient staff has to be made available to the fiscal authorities, and this staff must be trained especially well and remunerated adequately because this is the only option for advancing the fight against tax fraud in our countries in an efficient manner.

### **We need to make companies operating on an international level discharge their duties.**

The UFE takes a stand for taxation of corporate profits as well as of the salaries of taxpayers. This is the case especially with large company groups that are active on a cross-border level and that furthermore often make use of tax-dodging loopholes to achieve a reduction of their corporate income tax, if not to dodge paying them completely. The so-called "rulings", binding promises,

binding tax rulings and the transfer of profit abroad in the shape of structured investments, are the instruments that enable the practice of tax avoidance in the first place. The UFE regrets that, due to international competition, neither the European Commission nor the OECD or other organisations are willing to speak out loudly and clearly against the currently existing tax-dodging loopholes.

According to the UFE, the suggestion for a directive of the European Commission aiming at creating a common consolidated corporate tax base (CCCTB) is not the right response to tax-dodging loopholes and the reduced tax rates of companies operating on a cross-border level. In the first place, this directive would be intended to reduce the tax burden of companies by means of an international compensation of profits and losses.

With a view to tax-dodging loopholes and based on the debt crisis in the European countries, the UFE is of the opinion that these moneys should be used for the real economy which is always subject to taxation and should not be found in speculative structures or in tax havens. **The UFE asks** to adapt the suggestion of the directive in the sense of an efficient fight against tax avoidance and to procure to the member states durable tax revenues.

## **The right use of the instrument for risk management**

The attitude of the European Commission with a view to the instruments of risk management as well as the so-called “tax compliance”, i.e. fiscal honesty, is to be appreciated. However, the UFE has to recall that the concept of “compliance” serves to reduce the administrative expenses in connection with the tax liabilities of companies on a European level in the first place.

The UFE is of the opinion that it is certainly out of the question to accept risk management in order to enable a reduction of the number of employees. The human resources “set free” as a result of risk management would have to be employed to tighten the control measures – an aspect that is impossible to implement at the time being due to the shortage of staff. Unfortunately the current situation is as follows: There are hardly any free staffs, because the currently employed personnel are hardly sufficient to process the work in a “compliant” way, so to say, therefore in accordance with the rules.

The concept of “compliance” which requires that taxpayers discharge their tax liabilities of their own accord must not be used as an instrument that could be used to remedy the shortage of staff. The condition for this approach mainly consists of verifying whether taxpayers have actually discharged their tax liabilities, and in the second place, if “proof” of this has been shown, of subjecting taxpayers to regular tax audits on a national level, but also on a European level.

As a consequence, the UFE remains true to its motto: “Trust, but verify!”

## **Harmonisation of criminal proceedings in the field of tax law**

In a small number of European countries, the investigation and the further prosecution of tax offences falls in the scope of responsibility of the police, or else the passing on of information about this type of offences to the police is arranged for. As a rule, however, this procedure often proves to be not efficient enough. The reason for this is that the police services are, due their lack a training in tax law, not able to carry out this kind of task efficiently. The UFE is of the opinion that in case of prosecution under tax law, criminal investigation departments can only play the part of “conveyors of information” between the tax experts who have discovered the tax fraud on the one hand and the courts on the other hand.

We request that the tasks of prosecution and the investigations in all European countries are managed and carried out by a special organisation or a specialised service (financial police or agency for fraud and prosecution cases under tax law) under the authority of the respective fiscal authority in charge and that this organisation or authority has to dispose of sufficient staff.

## **Abolishment of tax amnesties and the so-called “Rubik” tax agreements**

The recent purchase of CDs with tax data, but especially the use made of them in Germany, have clearly shown that the pressure alone which is exercised in that way on the holders of bank accounts not registered for tax purposes presents a promising measure in the direction of increased loyalty with a view to tax matters. The fear of being found out and punished at the back of their minds made an impressively large number of people “report themselves”, whereupon their respective fiscal situation was straightened up. However, the amount of work in this connection remains enormous because it is assumed that seventy per cent of the assets from abroad that are managed in Switzerland are not listed in the tax statements. Probably this is also the case in other financial centres. The UFE appreciates the fact that clients from abroad will from now on be obliged in Switzerland to sign a declaration indicating that their financial situation is in accordance with the regulations of their respective revenue authorities. Nevertheless we are opposed to the so-called “Rubik” agreements which are intended to regulate the amounts in the bank accounts of tax evaders in the framework of lower, flat-rate based taxation. This would even mean opening the doors to tax offences for defrauders.

The “Rubik” agreements will have disastrous effects on the attitude to taxation of all honest taxpayers because they convey the message that “tax loyalty does not pan out”.

## **Replacement of the “Savings Directive” by an exchange of data**

The so-called “Savings Directive” is an exception that applies in the states of Austria, Belgium und Luxemburg, therefore in countries that voted against the automatic exchange of bank data. In the framework of this directive that was passed by the three member states of the EU as well as Switzerland, Liechtenstein and other countries that are not part of the EU, an anonymous payment of the moneys directly at the source to the amount of 15 % of the tax income of natural persons was introduced on 1<sup>st</sup> July 2005. On 1<sup>st</sup> July 2008, this tax rate was increased to 20 %, and since 1<sup>st</sup> July 2011, the withholding tax rate amounts to 35 %. Since the 1<sup>st</sup> January 2010 Belgium has implemented the automatic exchange of information. 75 % of the tax income which originates from the payment of the withholding tax levied is paid to the state of residence where the financial owners of the income have their place of residence for tax purposes, while the remaining 25 % of the income are kept by the country of origin. The current rate charged on interest to the amount of 35 % can be regarded as a deterrent tax rate, which initiated the gradual phasing-out of the so-called “Savings Directive”. The amounts levied are declining due to the general reduction of the interest rate, but this can also be attributed to the fact that investors have turned to other types of investments which are not affected by the deduction of the withholding tax rate. This is also the reason why the UFE speaks out in favour of an extension of the scope of application of this directive so vehemently: the coverage of all financial products, such as investment funds, accumulated funds, “hedge funds” (speculative funds), derivative instruments, warrants and other similar financial instruments by the “Savings Directive”.

As the measures of the European Commission aiming at extending the sphere of application of the “Savings Directive” do not result in any progress, the UFE advises to pre-pone the exchange of data – by means of automatic information exchange, or by means of data exchange on request in a first time. Since the majority of European states have amended their bilateral, double-taxation conventions by the addition of the provisions of Section 5 of Article 26 of the convention model of the OECD, the exchange of data – and thus also of bank data – has become real.

As for the rest, the entry into force of the FATCA (Foreign Account Tax Compliance Act) on 1<sup>st</sup> January 2013 in the United States will also present the end of banking confidentiality with a view to American taxpayers holding bank accounts in Europe.

## **Improved support and cooperation of the individual administrative bodies**

The UFE is of the opinion that we should make use without reservation of any sources that could help to uncover tax offences and that furthermore we should eliminate all obstacles which hinder the work of European tax administrations under the pretext of personal data protection. In order to uncover the machinations of fraudsters, the UFE advocates the purchase and use of so-called tax CDs with bank data containing information about tax evaders by state authorities. On a European level, a special legal framework is created that makes the purchase and use of tax data information legally permissible. Here we would like to point out once again that a tax that is not levied by a state, results in an increase of the government debts of that state.

Since several decades, the UFE has requested grabbing the bull by the horns and fighting against tax fraud in Europe in an efficient manner – on the one hand, with the aim of achieving improved cooperation of the individual authorities, and on the other hand, to eliminate the “loopholes” in tax laws. In this connection, the UFE appreciates the Directive 2011/16/EC of the Council of 15<sup>th</sup> February 2011 on the cooperation of administration agencies in the field of taxation and for the abolishment of the old Directive 77/799/EEC from the year 1977. The new directive provides for the establishment of an authority in charge and central liaison offices in the individual cooperating countries. The UFE hopes that this directive will finally become the decisive aspect enabling the implementation of data exchange on request, automatic information exchange and simultaneous controls in the European countries. We speak out in favour of the directive comprising the exchange of bank information too.

The introduction of the network for the fight against fraud, Eurofisc, certainly constitutes progress in the field of VAT of the automotive market, which is not the case for the direct taxes, however. The UFE once again underlines its request that an actual “follow-up law” be implemented on a European level in the framework of tax controls.

## **The financial parties involved must be called to account**

The UFE speaks out emphatically in favour of the introduction of a so-called financial transaction tax on a European level. In this way, it is intended to make the parties responsible for the financial crisis pay part of the costs incurred as a result. This tax would ease the burden on the budgets of the member states with regard to their contributions to the European budget and consequently also the tax payments of European citizens. But it cannot be intended that this tax should be imposed on the banks customers.

Since the outbreak of the financial crisis in the year 2008, the rescuing of banks has swallowed up millions and millions of direct financial aids and financial sureties of astronomically large numbers. In the current year 2012, the situation still has not settled. This is also the reason why the UFE requests to place the system-relevant banks of the member states under European control. However, we should not forget here that the sums put in the banks originate from tax revenue and will consequently be missing in the actual budgets, such as the social budgets. The UFE also suggests prescribing a moratorium regarding the distribution of dividends on the part of the banks in order for them to gather enough capital themselves and to achieve the equity capital share of 9 % that is recommended by the European Commission.

The UFE is of the opinion that the parties that are actually responsible for the financial crisis should be obliged to assume the costs resulting from it and that furthermore financial speculations should be restricted and forward sales (also called short sales) should be prohibited.

## **Rescuing Greece and other countries having financial difficulties**

For many years, the UFE has been speaking out against the reduction of civil service posts in tax administrations, and today we do this especially with a view to Greece. To be more precise: The UFE is also opposed to the delegation of tax officials from other countries to Greece, who are supposed to control the receipt of Greek tax income. First, this would have a negative impact on the professional ethics of our Greek colleagues, and then there are also language difficulties and problems in connection with different trainings and laws, and after all, no other European country can dispose of redundant staff that could be relocated to carry out this task. Furthermore the UFE declares its solidarity with the populations of heavily indebted countries that have to bear the costs for the savings schemes imposed on them by their countries, which were easy prey to financial speculations. The politicians have to proceed in a responsible way and give the necessary tools to collect all tax revenues needed to settle the public budget.

The UFE recommends supporting Greece and the other countries having financial difficulties, instead of the current whispering campaign. It will be in everybody's interest.

### **Defend the rights of the Tax staff**

Finally the UFE demands that all Tax officers are provided with protection at work, both in terms of protection and safeguarding of their health and safety, and the wellbeing and support of officers at work. As well the UFE requests that all European countries respect the fundamental right of trade unions to organise workers and for trade unions to represent the interests of those workers without fear of obstruction and reprisal.

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