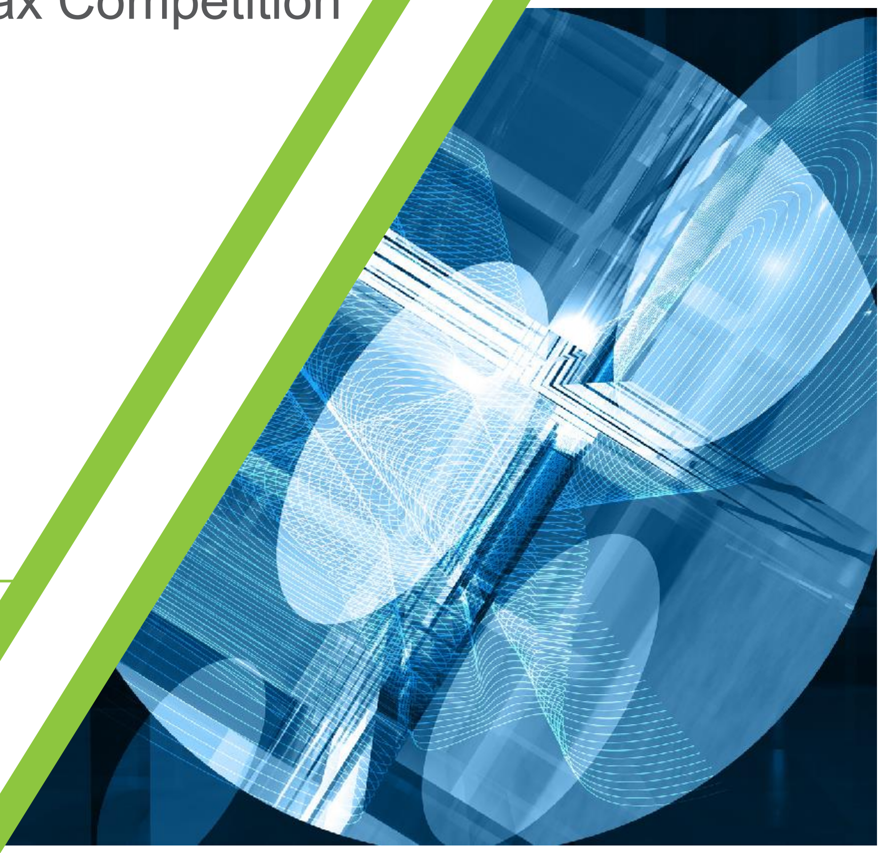
Recommendation of the Council on Implementing the Proposals contained in the 1998 Report on Harmful Tax Competition



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Background Information

The Recommendation on Implementing the Proposals contained in the 1998 Report on Harmful Tax Competition was adopted by the OECD Council on 16 June 2000 on the proposal of the Committee on Fiscal Affairs. The Recommendation aims to secure the integrity of tax systems by addressing the issues raised by practices with respect to mobile activities that unfairly erode the tax base of other countries and distort the location of capital and services. Such practices can also cause undesired shifts of part of the tax burden to less mobile tax bases, such as labour, property, and consumption, and increase administrative costs and compliance burdens on tax authorities and taxpayers. Hence, the Recommendation recommends that Adherents work to establish a co-operative process to promote the elimination of harmful tax practices by the jurisdictions identified in the 1998 OECD Report, “Harmful Tax Competition: An Emerging Global Issue” as meeting the tax haven criteria, and to prepare a list of Uncooperative Tax Havens.

THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Report entitled “Harmful Tax Competition: An Emerging Global Issue” (the "*1998 Report*");

HAVING REGARD to the Recommendation of the Council dated 9 April 1998 on counteracting Harmful Tax Competition adopted by the Council on 9 April 1998 [C(98)17/FINAL];

HAVING REGARD to the Report adopted by the Committee on Fiscal Affairs on "Progress on Identifying and Eliminating Harmful Tax Practices" (the "*2000 Report*") at its meeting on 25 May 2000;

RECOGNISING the OECD’s role in promoting an open, multilateral trading system and the need to promote the "level playing field" which is essential to the continued expansion of global economic growth;

RECOGNISING that the process of globalisation and the development of new technologies has brought about prosperity for many citizens around the world, but also raises challenges for governments to minimise tax induced distortions in investment and financing decisions and to maintain their tax base in this new global environment;

CONSIDERING that if governments do not intensify their co-operation, the tax base will be eroded, a part of the tax burden will shift from income on mobile activities to taxes on non-mobile activities and that such a shift would make tax systems less equitable and may have a negative effect on employment;

RECOGNISING the need for an ongoing dialogue with non-member economies to encourage them to associate themselves with the recommendations set out in the *1998 Report*;

NOTING, in this respect, the high-level meeting with non-member economies co-hosted by France and the OECD, scheduled for 29-30 June 2000 to explore ways in which they can be more closely associated with the *1998 Report*;

NOTING, furthermore, the high level political commitment made by Bermuda, Cayman Islands, Cyprus, Malta, Mauritius, and San Marino to eliminate harmful tax practices in accordance with the principles set out in the *1998 Report*;

HAVING REGARD to the jurisdictions identified in the *2000 Report* that meet the criteria set out in the *1998 Report* for being a tax haven;

NOTING the proposal of the Committee on Fiscal Affairs to produce by 31 July 2001 a List of Uncooperative Tax Havens and to use this List as the basis for implementing co-ordinated defensive measures;

HAVING REGARD to preferential tax regimes in OECD Member countries identified as potentially harmful;

On the proposal of the Committee on Fiscal Affairs:

I. **RECOMMENDS** that Member countries having approved the 1998 Report:

1. Collectively through the Committee on Fiscal Affairs take forward an active dialogue with the jurisdictions identified in the *2000 Report* as meeting the tax haven criteria with a view to obtaining the commitment of these jurisdictions to eliminate harmful tax practices in accordance with the principles of the *1998 Report*;

2. Refrain from using the identification of jurisdictions meeting the tax haven criteria in the 2000 Report as a basis for new or enhanced defensive measures, but rather to use the list of uncooperative tax havens for this purpose;

3. Individually and collectively explore ways, on a global as well as regional basis, to assist co-operative jurisdictions to move away from harmful tax practices.

II. **INSTRUCTS** the Committee on Fiscal Affairs to:

1. Establish a co-operative process to promote the elimination of harmful tax practices by the jurisdictions identified in the *2000 Report* as meeting the tax haven criteria;

2. Produce an OECD List of Uncooperative Tax Havens by 31 July 2001;

3. Include automatically on the OECD List of Uncooperative Tax Havens any jurisdiction identified in the *2000 Report* as meeting the tax haven criteria if the jurisdiction does not by 31 July 2001 commit to eliminate harmful tax practices in accordance with the *1998 Report* in a manner satisfactory to Member countries;

4. Update regularly the OECD List of Uncooperative Tax Havens;

5. Carry out work through the Forum on Harmful Tax Practices and, where appropriate, through other subsidiary bodies of the Committee, to develop guidance (application notes) to assist Member and non-member countries in assessing whether their potentially harmful regimes are, or could be applied to be, actually harmful, and in determining how to remove the harmful features of such regimes, in order to meet their commitments under Recommendation 15 of the 1998 Report to remove harmful features of preferential tax regimes by April 2003;

6. Undertake a verification process to ascertain that OECD countries have met their commitments, and report back to the OECD Council no later than June 2003 regarding compliance with Recommendation 15 of the 1998 Report;

7. Explore ways in which non-member economies that share the concerns of Member countries to counter harmful tax practices can be brought into an active dialogue with the Forum on Harmful Tax Practices;

8. Work with interested international and bilateral assistance agencies to assist co-operative jurisdictions to meet the tax and regulatory standards set out in the 1998 OECD Report and to work with these jurisdictions during the transitional period to support their economies as they move away from harmful tax practices.

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