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Annex 2 to ROOM DOCUMENT # 3
Code of Conduct Group (Business Taxation)
4 March 2010
ORIGIN: Commission Services

Third Country tax systems with agreed good governance provisions

Preliminary Review

South-Korea

In the context of the economic and financial crisis, the Republic of Korea has slowed down their intended tax reform[1] that was planned to enter in force in 2010. However, some of the changes have been effectively implemented since 1st January.

According to the publicly available information and taking into account the aim of these measures, they do not seem to meet the criteria for harmfulness under the Code, but the Group may want to consider a more thorough examination.

1. Tax holiday

Corporate and individual income tax and income tax on dividend income are reduced by 100% for the first 5 years and 50% for the next 2 years for high-technology enterprises and enterprises in foreign investment zones.

Enterprises in foreign investment zones must be in the following businesses with investments exceeding the following threshold amounts:

1. Manufacturing → 30 million USD
2. Research and development services → 2 million USD
3. Two or more foreign invested enterprises → 30 million USD

The tax incentive intends to promote foreign direct investments, specially in advanced technology.

2. Free Trade Zones

Corporate and individual income tax and income tax for dividend income are reduced by 100% for 3 years, and 50% for the next 2 years for enterprises in free trade zones, exclusive foreign investment industrial parks, free economic zones, the Jeju Hi-tech Park, the Jeju Investment Promotion Zone and the Jeju Free Trade Zone, free economic zone developers and development project operators. Import duties may be abated for business operators in these areas.

Acquisition, registration or property tax are reduced in a similar fashion to corporate income tax, but the incentive period may be extended up to 15 years.

The Korean government recognizes the fact that foreign direct investments play an important role in the economy and designates special economic zones to facilitate an inflow of foreign investments.

[1] For example, the intended reduction of the standard corporate tax rate from 22% to 20% has been postponed two years

Ukraine

The only measures with an incentive character found for the Ukraine also relate to the economic and financial crisis, but neither of them seems to meet the criteria for harmfulness of the Code of Conduct.

1. Moratorium for audits and penalties

In May 2009, the government introduced a moratorium for most types of tax audits from 29th May 2009 until 31 th December 2010. The resolution introduces a temporary moratorium on the following actions until 31 December 2010:

- All scheduled audits of business entities, except for scheduled audits of high risk entities and scheduled tax audits.
- Unscheduled audits, except for cases in which such audits are requested by the business entities or upon receipt of a complaint in respect of such entities.

If supervisory authorities discover violations of laws during such inspections, they may request that such violations be rectified within the next 30 days. The authorities may apply financial and administrative penalties only if the request has been ignored.

2. Other Financial Crises Measures

On 24 November 2009, the Law "On amendments of certain laws of the Ukraine to restrain negative consequences of the financial crisis" became effective. Some of the most relevant tax measures approved are as follows:

- banks and non-banking financial institutions (except for insurance companies, non-state pension funds and corporate investment funds) may deduct 80% (for banks, 100% until 1 January 2011) of reserves formed for recovering losses from all types of lending operations (including issued guarantees and other financial instruments);
- income from lending operations is included in the tax base of resident banks only when it is actually realized (received). This rule is effective starting from 1 January 2009 until 1 January 2011.