

Corporate Tax Alert

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27 February 2014

Finance Minister clarifies reporting obligation for payments to Luxembourg

The **26 November 2013 corporate tax alert** brought to light the OECD country ratings regarding the level of compliance with the global standard on tax information exchange. It was mentioned that, pending any addendum to the existing 2010 circular letter, these ratings should have an impact on the reporting obligation of Art. 307 ITC for direct or indirect payments (exceeding the EUR 100,000 annual threshold) to persons located in a state considered as “not effectively or substantially applying” the OECD exchange of information standard.

The Finance Minister has provided clarity in a reply to an oral parliamentary question dated 25 February 2014.

The Minister confirmed that:

- payments to countries rated as “partially compliant” are not caught by the reporting obligation; hence, any payments to persons in Austria and Turkey continue to be outside Art. 307 ITC’s scope of application;
- payments to the British Virgin Islands (already blacklisted as a low-tax jurisdiction for Art. 307 ITC reporting purposes), Cyprus, Luxembourg and the Seychelles must be reported for each taxable period starting on or after 1 December 2013. The obligation no longer applies as of the taxable period during which the OECD Forum no longer considers a country to be non-compliant:
 - for example, for companies whose financial year coincides with the calendar year: if Luxembourg’s rating would not change during 2014, payments to Luxembourg would be subject to the reporting obligation in 2015;
- the fact that the country concerned is an EU member state and/or has a tax treaty with Belgium does not impact the reporting obligation.

Contact

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