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The European banking secrecy cartel
Under Swiss cover

Luxembourg, Belgium and Austria are important tax havens within the EU. They observe strict banking secrecy and attract foreign capital via a range of loopholes. In Switzerland's shadow, they have successfully resisted the automatic sharing of fiscal information. But here too, opposition is stirring against aiding and abetting international tax evasion.

Luxembourg, Belgium and Austria have the strictest banking secrecy within the European Union. In the rankings of the online service of the German magazine «Focus», they are outdone only by the British Channel Islands – and the non-EU countries of Liechtenstein and Switzerland.

Luxembourg and Austria have enshrined banking secrecy in their Constitution. Lucien Thiel, Director of the Luxembourg Bankers' Association, even equates it with a human right. No wonder, for Luxembourg has so far profited immensely from this «human right». The roughly 23 per cent share of its financial sector in overall value added for 2000 was one of the highest worldwide (Switzerland 2001: 13%, Austria just under 7%, Belgium a good 5%).

Judicial assistance in exceptional cases only

There are varying degrees of willingness on the part of the three EU States to provide international judicial assistance in fiscal matters. Only Luxembourg is as strict as Switzerland: international legal assistance is given only in tax fraud cases (forgery of documents), but not for simple tax evasion. For as in Switzerland, tax avoidance is not a criminal offence in the Grand Duchy, but is subject only to administrative sanctions.

In contrast, tax evasion worth EUR 75,000 or more becomes a criminal offence in Austria – in which case that country provides international judicial assistance. Amounts below that qualify as administrative offences. «Austria could nevertheless grant international administrative assistance in these cases», says Otto Plückhahn, Head of the Penal Tax Law Division of the Austrian Finance Ministry. Still, Nonno Breuss of Attac Austria qualifies his country's willingness to cooperate internationally: it is in truth and fact quite negligible.

«In Belgium, simple tax evasion is regarded as tax fraud and is criminally prosecuted», says Denis van der Meerschen of the central office for direct taxes. In principle, Belgium is willing to grant judicial assistance even where there is no concrete suspicion of tax fraud, for example, in order to clarify financial circumstances. Banks are in general extremely reluctant to give out information, however, van der Meerschen admits.

Savings income taxation instead of information sharing

In June 2000, EU Finance Ministers meeting in Feira, Portugal had decided that all member countries must introduce automatic information sharing between banks and tax authorities. Countries such as Switzerland were to be included. Implementing this decision would have badly pierced the veil of banking secrecy in Luxembourg, Belgium and Austria. Those three States therefore gratefully took the cue given them by Switzerland, declaring their banking secrecy to be «non-negotiable» and suggesting a tax retention on savings income accruing to non-resident EU citizens as an alternative to the exchange of information. Within the EU, those three countries reserved the same derogation for themselves.

Indeed the EU views this as no more than a transitional solution until Switzerland and other third countries are ready for information sharing upon request. Raymond Klein of the Luxembourg weekly «Woxx» speculates: «That is purely hypothetical though, for Switzerland will probably never be ready for this».

«A 35% levy as of 2011 under EU savings income taxation would be steep», says the Luxembourger, for Luxembourg has never ever had a withholding tax on interest accruing to persons domiciled abroad. It is new for Austria as well. To date Belgium has had a 15% tax retention on bank rates and 25% on dividends. It meant that financial income did not need to be included in the tax declaration and therefore did not come under tax progression.

Savings income taxation with many loopholes

Yet the agreement on the savings income taxation should not prove all too effective, for it is known to contain many loopholes. It does not cover dividends and capital gains or legal entities. The taxation of savings income can also be circumvented by appropriately structured funds (see article opposite).

Being a country where funds are a speciality, Luxembourg in particular stands out for a high level of know-how in the realm of innovative financial instruments. Between 1980 and June 2003, managed fund assets in that country rose from EUR 3 billion to roughly EUR 880 billion. Thus together with France, the Grand Duchy ranks second worldwide behind the USA when it comes to investment funds. It is hardly surprising therefore that from very early on, Luxembourg ensured in the EU that most profits from these funds would not fall under the EU Directive on Savings Income Taxation.

The elimination of banking secrecy thus remains a central concern to non-governmental organisations militating for greater tax justice. As the Austrian Breuss stresses: «We want banks in Austria to report regularly to the Finance Ministry and to authorities abroad on interest income». Denis Horman from the Belgian non-governmental organisation GRESEA (Groupe de recherche pour une stratégie alternatives) echoes the same sentiment: «As long as banking secrecy is not eliminated, tax injustices will persist».

Box

Tax Justice Network

Organisations and individuals from Austria and Belgium as well as from many other countries are working with the international «Tax Justice Network». The Swiss Coalition of Development Organizations is a founding member of the Network. It strives to tackle the worldwide problems of unfair tax competition, tax avoidance and tax fraud, which hold disastrous implications for developing and industrialised countries. Further information: www.taxjustice.net