

FATCA Will Produce Benefits for Non-U.S. Tax Administrations, OECD Official Says

By Rick Mitchell

PARIS—International implementation of the U.S. Foreign Account Tax Compliance Act will generate benefits for non-U.S. tax administrations in countries participating, but potentially “huge” compliance costs for financial institutions will need to be addressed, the new head of the Organization for Economic Cooperation and Development's Committee on Fiscal Affairs told BNA June 30.

FATCA imposes requirements on foreign financial institutions to disclose U.S.-owned accounts to the Internal Revenue Service or face a 30 percent withholding tax in some cases, beginning in 2013 (52 DTR GG-2, 3/19/10). Foreign governments and financial institutions have expressed concerns about FATCA compliance burdens, as well as conflicts with local privacy and tax laws (126 DTR G-2, 6/30/11).

Masatsugu Asakawa, deputy vice minister for international affairs of the Japanese Ministry of Finance, said FATCA will reduce countries' compliance costs in applying tax treaty benefits and will also enhance automatic exchange of information among tax authorities. “So it's not only for the benefit of the United States but also for the benefit of other countries participating in the system,” he said.

Asakawa took over as chairman of the OECD CFA in late June, replacing Paolo Ciocca, a former official in the Italian Ministry of Economy and Finances (19 DTR I-1, 1/28/11).

CFA sets international standards on taxation, and manages such OECD flagship publications as the *Model Tax Convention* and the *Transfer Pricing Guidelines*, as well as regular publications on revenue statistics and labor taxes.

Competition and Cooperation

The Japanese official made his comments in the wings of OECD's conference on Challenges in Designing Competitive Tax Systems, which gathered more than 150 tax officials from OECD's 34 member countries, which include some of the world's most advanced economies, as well as from eight key emerging countries that are members of the Group of 20 leading economies.

The conference, part of OECD's 50th anniversary events, considered ways tax administrations can cooperate in the face of common challenges, such as offshore tax evasion, as well as ways to ensure their tax systems don't hurt businesses' ability to compete.

OECD has said governments lose billions of dollars in tax revenues to offshore tax evasion every year (208 DTR I-1, 10/29/10). OECD's Forum on Tax Administration said last year that better coordination between administrations would aid international efforts to improve offshore tax compliance, but that this has been one of the areas of taxation to show improvement (179 DTR I-1, 9/17/10).

Attending the conference, Manal S. Corwin, U.S. deputy assistant secretary for International Tax Affairs, noted that FATCA set up a U.S. system aimed at getting information on U.S. residents from foreign institutions, with an objective of improving global cooperation to fight offshore tax evasion.

“To the extent that other countries have the same objectives, I think we have joint benefits,” she said.

U.S. Discussing Concerns

Jeffrey Owens, director of OECD's Center for Tax Policy and Administration, said good offshore tax compliance requires good tax administration service balanced with good enforcement. He has said previously that joint audits can be a way to improve compliance.

Owens told reporters that OECD is following the debate on FATCA carefully. "I think the United States is aware that it needs to reduce the compliance burden and that it needs to ensure that not just the United States benefits from the information they are asking for," he said.

Asakawa said Japan has concerns about FATCA's potential compliance costs.

"I understand the basic purpose of this [FATCA] initiative but administrative compliance costs might be huge for financial institutions. So, we are discussing with the United States how to make [FATCA] more realistic," he said.

Corwin said the United States is talking with several governments about their concerns of potential compliance burdens of FATCA, including conflicts with local privacy laws. "We're talking with [them] about whether it's possible to implement aspects of FATCA by leveraging our existing information exchange relationships," she said.

"I think it's encouraging to note that countries that have the same objectives are open to having those conversations with us," Corwin said.

Limit Gaming of Systems

In opening comments to the conference, OECD Secretary-General Angel Gurría said that as the global economy becomes increasingly interlinked, countries need to consider how their tax systems interact to create incentives for cross-border trade and investment. But they also have to cooperate to limit the scope for gaming the system with multiple deductions, creation of untaxed income, and other unintended consequences of international tax arbitrage, he said.

Gurría said better analytical tools are needed for measuring competitiveness of tax systems, as well as a common analytical framework to assess costs of investment tax incentives. Governments should regularly publish how much such incentives cost and whether they accomplish their stated aims.

He also called for joint efforts to reduce compliance costs. "High compliance costs can be just as much of a barrier as high tax rates. And complexity only benefits tax advisers," he said.

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