Multilateral Convention on Mutual Administrative Assistance in Tax Matters

INFORMATION BRIEF

November 2013

For more information please contact:

Pascal Saint-Amans, OECD Centre for Tax Policy and Administration Director (<u>pascal.saint-amans@oecd.org</u>)



THE MULTILATERAL CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS

November 2013

The Convention was developed jointly by the OECD and the Council of Europe in 1988 and amended by Protocol in 2010. The Convention is the most comprehensive multilateral instrument available for all forms of tax cooperation to tackle tax evasion and avoidance, a top priority for all countries.

The Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the international standard on exchange of information on request and to open it to all countries, in particular to ensure that developing countries could benefit from the new more transparent environment. The amended Convention was opened for signature on 1st June 2011.

Since 2009 the G20 has consistently encouraged countries to sign the Convention including most recently at the meeting of the G20 Leaders Summit in September 2013 where the communique stated "We call on all countries to join the Multilateral Convention on Mutual Administrative Assistance in tax Matters without further delay." Currently over 60 countries have signed the Convention and it has been extended to over 10 jurisdictions. This represents a wide range of countries including all G20 countries, all BRIICS, almost all OECD countries, major financial centres and a growing number of developing countries.

The Convention has now taken on increasing importance with the G20's recent call for automatic exchange of information to become the new international tax standard of exchange of information. The Convention provides the ideal instrument to swiftly implement automatic exchange.

More information on the Convention can be found on the OECD website: www.oecd.org/ctp/eoi/mutual



1. What is the Multilateral Convention on Mutual Administrative Assistance in Tax Matters?

The Convention is a multilateral agreement designed to facilitate international co-operation among tax authorities to improve their ability to tackle tax evasion and avoidance and ensure full implementation of their national tax laws, while respecting the fundamental rights of taxpayers. The Convention is the most comprehensive multilateral instrument available for tax cooperation and exchange of information. It provides for all possible forms of administrative co-operation between states in the assessment and collection of taxes. This co-operation includes automatic exchange of information, simultaneous tax examinations and international assistance in the collection of tax debts.

The Multilateral Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the Council of Europe and the OECD and opened for signature by the member states of both organisations on 25 January 1988 and amended by Protocol in 2010.

2. Why was the Convention amended in 2010?

The Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the international standard on exchange of information and to open it to all countries, in particular to ensure that developing countries could benefit from the new more transparent environment. The amended Convention was opened for signature on 1st June 2011. Since then a number of developing countries have signed the Convention including Costa Rica, Ghana, Guatemala, Morocco and Tunisia.

3. Who has signed the Convention?

As of 18 November 2013, the signatories to the Convention are: Albania, Andorra, Argentina, Australia, Austria, Azerbaijan (original Convention only), Belgium, Belize, Brazil, Canada, China, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, India, Indonesia, Ireland, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Malta, Mexico, Moldova, Morocco, Netherlands, New Zealand, Nigeria, Norway, Poland, Portugal, Romania, Russia, Saudi Arabia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Switzerland, Sweden, Tunisia, Turkey, Ukraine, United Kingdom, and United States. The signatories to the Convention represent a wide range of countries including major financial centres and developing countries. In addition, interest in the Convention continues to grow.

The following jurisdictions are also covered by the Convention through territorial extension by Denmark: the Faroe Islands and Greenland; by territorial extension by the Netherlands: Aruba, Curação and Sint Maarten; and by territorial extension by the United Kingdom: the Cayman Islands, Montserrat and Turks and Caicos.

A signing ceremony of the Convention will take place on 21 November in Jakarta on the occasion of the Global Forum on Transparency and Exchange of Information for tax purposes. A number of countries including Liechtenstein and San Marino will sign the Convention in Jakarta.



For updates on the list of the signatories to the Convention please refer to the chart of signatures and ratifications at:

http://www.oecd.org/ctp/exchange-of-tax-information/Status of convention.pdf

4. What are the benefits of the Convention?

The amended Convention is the most comprehensive multilateral instrument available for co-operation between tax administrations. The scope of the Convention is broad: it covers a wide range of taxes and goes beyond exchange of information on request. It also provides for other forms of assistance such as: spontaneous exchanges of information, simultaneous examinations, performance of tax examinations abroad, service of documents, assistance in recovery of tax claims and measures of conservancy and automatic exchange of information. It can also facilitate joint audits. The Convention also includes extensive safeguards to protect the confidentiality of the information exchanged.

5. In July 2013, the G20 called for automatic exchange to become the new international standard. Does the Convention allow automatic exchange of information?

Yes. Article 6 of the Convention provides for automatic exchange of information. The Convention is the ideal instrument to implement automatic exchange of information swiftly and multilaterally. To implement Article 6, an administrative agreement between the competent authorities of two or more interested Parties to the Convention is required. The agreement would address issues such as the procedure to be adopted and the information that will be exchanged automatically. The OECD is working with G20 countries to develop a multilateral model for automatic exchange of Information.

6. How is the Convention relevant to the standardized model for automatic exchange of information being developed by OECD and for the implementation of FATCA through Intergovernmental Agreements (IGAs)?

Both the standardised model, which is currently being developed by the OECD with G20 countries, and the IGAs are based on the automatic exchange of information from the tax administration of one country to the tax administration of the residence country. As with other forms of exchange of information, a legal basis is needed to carry out automatic exchange. While bilateral treaties such as those based on Article 26 of the OECD Model Tax Convention would permit such exchanges, it may be more efficient to implement a single global standard through a multilateral instrument.

For more information on the OECD's work on automatic exchange and the development of a common model for reporting and automatic exchange of certain account information held by financial institutions, including due diligence rules, please refer to the OECD website: http://www.oecd.org/tax/exchange-of-tax-information/

7. Can the information obtained under the Convention be given to other authorities, e.g. law enforcement authorities to counteract corruption, money laundering and terrorism financing?



Yes, the Convention expressly allows this, but subject to certain conditions: information received by a Party may be used for other purposes when (i) such information may be used for such other purposes under the laws of the supplying Party and (ii) the competent authority of that Party authorises such use.

8. How does the Convention protect taxpayers' rights under the Convention?

The Convention has strict rules to protect the confidentiality of the information exchanged. It provides that information shall be treated as secret and protected in the receiving State in the same manner as information obtained under its domestic laws. If personal data are provided, the Party receiving them shall treat them in compliance not only with its own domestic law, but also with the safeguards that may be required to ensure data protection under the domestic law of the supplying Party.

For more information on the OECD's work on confidentiality of tax information please refer to the report "Keeping it Safe". http://www.oecd.org/tax/exchange-of-tax-information/keepingitsafetheoecdguideontheprotectionofconfidentialityofinformationexchangedfortaxpurposes.htm

9. What is the role of the Coordinating Body (CB)?

The CB is responsible for monitoring the implementation and development of the Convention. All countries that have signed the Convention participate on an equal basis in the CB and work together to ensure that the Convention operates effectively. The CB brings together representatives of the competent authorities of the Parties and signatories to the Convention. The CB may recommend any action likely to further the general aims of the Convention, study new methods and procedures to increase international co-operation in tax matters, recommend revisions or amendments, and furnish opinions on the interpretation of provision of the Convention. The CB also reviews the requests of countries interested in becoming parties to the Convention.

