



## Recommendation of the Council to Facilitate Co-operation between Tax and Other Law Enforcement Authorities to Combat Serious Crimes

14 October 2010 - C(2010)119

### THE COUNCIL

**Having regard** to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

**Having regard** to the Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions [C(2009)64];

**Having regard** to the Recommendation of the Council concerning the Model Tax Convention on Income and on Capital (hereafter the "OECD Model Tax Convention") [C(97)195/FINAL];

**Having regard** to the Conclusions of the 2010 meeting of the Council at Ministerial level [C/MIN(2010)6/FINAL] and the Declaration on Propriety, Integrity and Transparency in the Conduct of International Business and Finance [C/MIN(2010)3/FINAL];

**Having regard** to the Conclusions of the 2009 meeting of the Council at Ministerial level [C/MIN(2009)5/FINAL];

**Having regard** to the FATF 40 Recommendations and 9 Special Recommendations;

**Having regard** to the 2009 OECD Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors;

**Considering** that tax authorities can play an important role in the detection of all serious crimes and not only foreign bribery;

**Considering** that sharing information by tax authorities with other law enforcement authorities can advance efforts to detect, investigate and prosecute serious crimes;

### On the proposal of the Committee on Fiscal Affairs;

**I. RECOMMENDS** that Members establish, in accordance with their legal systems, an effective legal and administrative framework and provide guidance to facilitate reporting by tax authorities of suspicions of serious crimes, including money laundering and terrorism financing, arising out of the performance of their duties, to the appropriate domestic law enforcement authorities.

**II. FURTHER RECOMMENDS** that Members consider to include in their bilateral tax treaties, the optional language of paragraph 12.3 of the Commentary to Article 26 of the OECD Model Tax Convention, which allows "the sharing of tax information by tax authorities with other law enforcement agencies and judicial authorities on certain high priority matters (e.g. to combat money laundering, corruption, terrorism financing)" and reads as follows:

"Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use."

**III. INVITES** non-Members to adhere to this Recommendation.

**IV. ENCOURAGES** all countries to distribute widely within their tax administrations the 2009 OECD Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors.

**V. INSTRUCTS** the Committee on Fiscal Affairs to monitor the implementation of the Recommendation and to promote it in the context of contacts with non-Members and to report to Council as appropriate.