European Commission - Press release

State Aid: Commission recommends not granting financial support to companies with links to tax havens

Brussels, 14 July 2020

The European Commission has today recommended that Member States do not grant financial support to companies with links to countries that are on the EU's list of non-cooperative tax jurisdictions. Restrictions should also apply to companies that have been convicted of serious financial crimes, including, among others, financial fraud, corruption, non-payment of tax and social security obligations. The aim of today's recommendation is to provide guidance to Member States on how to set conditions to financial support that prevent the misuse of public funds and to strengthen safeguards against tax abuse throughout the EU, in line with EU laws. By coordinating restrictions on financial support, Member States would also prevent mismatches and distortions within the Single Market.

Executive Vice-President Margrethe **Vestager**, in charge of competition policy, said: *"We are in an unprecedented situation where exceptional volumes of State aid are granted to undertakings in the context of the coronavirus outbreak. Especially in this context, it is not acceptable that companies benefitting from public support engage in tax avoidance practices involving tax havens. This would be an abuse of national and EU budgets, at the expense of taxpayers and social security systems. Together with Member States, we want to make sure that this does not happen."*

Paolo **Gentiloni**, Commissioner for the Economy, said: *"Fairness and solidarity lie at the heart of the EU's recovery efforts. We are all in this crisis together and everyone must pay their fair share of tax so that we can support and not undermine our collective efforts to recover. Those who deliberately bypass tax rules or engage in criminal activity should not benefit from the systems they are trying to circumvent. We must protect our public funds, so that they can truly support honest taxpayers across the EU."*

It is up to Member States to decide if they wish to grant financial support and to design measures in line with EU rules, including State aid rules, and their policy objectives. The coronavirus outbreak has required unprecedented efforts at both national and EU level to support Member States' economies and facilitate their recovery. This includes substantial financial support to provide liquidity and capital for companies, save jobs, safeguard supply chains and facilitate research and development. In this context, several Member States have expressed their willingness to adopt rules, restricting access to such support by companies engaged in tax avoiding practices involving tax havens, or convicted of financial crimes, and have requested guidance from the Commission on how best to address this concern.

Today's recommendation aims at providing a template to Member States, in line with EU laws, on how to prevent public support from being used in tax fraud, evasion, avoidance or money-laundering schemes, or terrorist financing. In particular, companies with links to jurisdictions on the EU's list of non-cooperative tax jurisdictions (e.g. if a company is resident for tax purposes in such a jurisdiction) should not be granted public support. Should Member States decide to introduce such provisions in their national legislation, the Commission suggests a number of conditions on which they should make the financial support contingent. The EU list of non-cooperative tax jurisdictions is the best basis to apply such restrictions, as it will enable all Member States to act consistently and will avoid individual measures that may violate EU law. The use of this list to implement the restrictions will also create more clarity and certainty for businesses.

At the same time, the Commission stands ready to discuss with Member States their specific plans for ensuring that the granting of State aid, in particular in the form of recapitalisations, should be limited to undertakings paying their fair share of tax.

The Commission also recommends exceptions to these restrictions – to be applied under strict conditions – in order to protect honest taxpayers. Even if it has links to jurisdictions on the EU's list of non-cooperative tax jurisdictions, a company should still be able to access financial support under certain circumstances. This could be the case, as an example, if it can prove that it has paid adequate tax in the Member State for a given period of time (e.g. the last three years) or if it has a genuine economic presence in the listed country. Member States are advised to introduce appropriate sanctions to discourage applicants from providing false or inaccurate information.

Member States should also agree to reasonable requirements for companies to prove that there is no link with a jurisdiction on the EU list of non-cooperative tax jurisdictions. The recommendation suggests principles to assist Member States in this area.

Finally, Member States should inform the Commission of the measures that they will implement to comply with today's recommendation, in line with the EU's good governance principles. The Commission will publish a report on the impact of this recommendation within three years.

For More Information

For more information, see here.

IP/20/1332

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