

IOTA Digital Workshop

Combating international tax avoidance and aggressive tax planning through the use of legal entities in tax havens

Group Discussion 2
Assessing real business activity

Question 1

Is information included in commercial databases most commonly used by tax administrations i.e. Moody's Orbis/ TP Catalyst, adequate to assess a company's business activity which is located in a jurisdiction with a preferential tax regime?

FEEDBACK FROM GROUP 1

The general view of the group was that commercial databases such as Orbis and TP Catalyst are useful starting points, but they are rarely sufficient on their own to assess the actual activity or economic substance of companies located in low-tax or offshore jurisdictions.

Participants noted that information is often incomplete, especially regarding financial statements, ownership structures and operational activities. The quality of the information largely depends on the transparency of the jurisdiction. Where company registers are not public, commercial databases can only provide limited information.

A common observation was that companies with genuine business activities usually leave traces in multiple sources, while shell or conduit companies often generate very little publicly available information. Therefore, administrations typically supplement commercial databases with:

- Public business registers;
- Company websites;
- Internet and social media searches;
- LinkedIn profiles;
- Exchange of information channels.

The group also discussed employee data available in commercial databases. While the absence of employees may serve as a useful indicator of potential lack of substance, participants emphasized that such information should be treated cautiously because employee figures may include directors or managers and do not necessarily reflect actual operational capacity.

Question 2

How does your tax administration identify a company that is located in a “tax haven” if it is used for tax avoidance purposes?

N/A

FEEDBACK FROM GROUP 1

Question 3

Do you use any (or a combination) of indicators that can serve as red flags? Can you share some of them?

FEEDBACK FROM GROUP 1

There was broad agreement that no single indicator is sufficient and that tax administrations rely on a combination of risk indicators.

The main red flags identified were:

- Lack of ownership or beneficial ownership information;
- Missing financial statements or annual accounts;
- Limited public information about the entity;
- Connections to low-tax or non-cooperative jurisdictions;
- No employees or very limited personnel despite significant turnover;
- Business activities that appear inconsistent with the company's reported profile;
- Complex ownership structures;
- Unusual financing arrangements and intermediary entities with limited functions.

Question 3

Do you use any (or a combination) of indicators that can serve as red flags? Can you share some of them?

FEEDBACK FROM GROUP 1

Participants also highlighted the value of:

- Country-by-Country Reporting data;
- Cross-border payment information reported by financial institutions;
- Internal risk assessment systems;
- Historical audit findings and previous cases.

Several countries indicated that dedicated risk assessment or selection units play an important role in identifying high-risk cases. Audit findings are often fed back to these units, allowing them to continuously refine their risk models and selection criteria.

Question 4

Is the term of “economic substance” specifically defined in your domestic legislation? If not, do you review it indirectly through other means (CFC rules, TP, etc)?

FEEDBACK FROM GROUP 1

Q/A

Question 5

Bearing in mind barriers such as statutes of limitations and internal deadlines, for finishing an audit, how is the decision about the extent of an audit being taken? What type of information is tried to be retrieved domestically and what through exchange of information channels?

FEEDBACK FROM GROUP 1

The discussion highlighted the practical challenge of balancing audit deadlines and statutes of limitation against the time needed to obtain foreign information.

Participants indicated that the scope of an audit is usually influenced by:

- The materiality of the case;
- The expected tax impact;
- The likelihood of obtaining useful evidence;
- Available time and resources.

As a general principle, administrations try to obtain information domestically first, including:

- Information from taxpayers;
- Related-party information;
- Domestic registers;
- Banking information where permitted;
- Internal databases;
- Publicly available sources.

Question 5

Bearing in mind barriers such as statutes of limitations and internal deadlines, for finishing an audit, how is the decision about the extent of an audit being taken? What type of information is tried to be retrieved domestically and what through exchange of information channels?

FEEDBACK FROM GROUP 1

When foreign evidence is needed, administrations use exchange of information mechanisms to obtain:

- Ownership information;
- Group structures;
- Financial information;
- Evidence regarding economic substance;
- Other information unavailable through domestic sources.

However, several participants noted that exchange of information requests often take between six and twelve months and may not always result in complete information.

An interesting part of the discussion concerned statutes of limitation. Participants shared different approaches:

- Georgia applies a three-year limitation period;
- Finland extends the period to six years for transfer pricing cases and cases involving international information exchange;
- Denmark has similar mechanisms;
- Portugal allows suspension of audit deadlines for up to twelve months when an exchange of information request is made;
- The Czech Republic also allows limited extensions linked to information exchange procedures.