

## EFAA for SMEs Position regarding

### EU-Initiative SAFE (Securing the Activity Framework of Enablers) to tackle

### the role of enablers that facilitate tax evasion and aggressive tax planning in the EU

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The [European Federation of Accountants and Auditors for SMEs](#), EFAA for SMEs, fully supports the initiatives of the European Commission aiming to combat tax evasion.

The professional accountants and tax advisors, who are members of [EFAA member organisations](#), adhere to the strict ethical rules of their professional accountancy organization. These rules are generally aligned with the [Code of Ethics for Professional Accountants](#) (the Code) issued by the [International Ethics Standards Board for Accountants \(IESBA\)](#). EFAA members are small- and medium-sized accountancy practices and tax advisors who fully support, and contribute to, fight tax evasion and aggressive tax planning. They are fully committed to tax compliance.

EFAA would like to stress the key role small- and medium-sized accountancy practices (SMP) already play in providing audit, tax and accounting services to guarantee fair and accurate tax collection.

#### **Relation of SAFE to existing national regulation**

EFAA stresses, that any provision of the upcoming SAFE proposal must not suspend, lower, or affect existing tax compliance regulation in the Member States, as far as these existing regulations do not contradict the SAFE provisions. Also, Member States should be allowed to introduce stricter regulation to effectively fight tax evasion and aggressive tax planning.

#### **Definition: aggressive tax planning**

Within the framework of legal requirements, tax service providers are obliged to consult and to advise their clients in the best possible way. Therefore, tax service providers need a clear definition of aggressive tax planning. Otherwise, they will not be able to evaluate if a tax plan is appropriate or not. Also, taxpayers will need to have legal certainty. Otherwise, there might be a decrease of confidence in the tax systems.

Therefore, EFAA proposes to complement the definition with a definitive and regularly updated list of examples/models of aggressive tax planning. Such a list could become an important indication to avoid crossing the red line for tax service providers. Such a list could be based on the results of cross-border tax arrangements of DAC 6 (EU Council Directive 2011/16), as far as the tax arrangements concern non-EU-Countries. In addition, national tax authorities and European and national representatives of tax service providers should be entitled to propose examples/models of aggressive tax planning.

Furthermore, EFAA suggests installing a permanent high-level-committee of representatives of national tax authorities and tax service providers to regularly update such a list of examples/models.

#### **Scope: Complex structures in Non-EU-Countries**

EFAA welcomes the Commission's intention to focus SAFE on complex structures in non-EU countries in view of tax evasion and aggressive tax planning. In terms of volume, oversea tax havens, complex offshore structures or profit shifting by multi-national companies to worldwide tax havens are doubtlessly causing most aggressive tax planning and tax evasion. Therefore, EFAA advocates to exclude tax service providers located in the EU, especially SMPs (small- and medium-sized

practitioners) from the scope of SAFE. SMPs neither have the knowledge of complex tax planning models, nor the necessary network in non-EU-countries, nor the demand of their typical clients.

### **Option 1:**

EFAA doubts, that any prohibition of tax service providers located in non-EU-countries, who enable aggressive tax planning or tax evasion can be effectively enforced. Consequently, EFAA proposes to prohibit taxpayers based in the Member States from engaging tax service providers in non-EU-countries, who enable aggressive tax planning or tax evasion.

Also, EFAA questions any sanction of actions, that are solely of assistance or support to a lawful and unsanctioned main action. As far as taxpayers may continue to execute aggressive tax planning without sanctions, tax service providers should also not be sanctioned for assisting or supporting aggressive tax planning.

Nevertheless, EFAA is committed to the fight against aggressive tax planning. Consequently, EFAA proposes to sanction taxpayers in the Member States, who commit aggressive tax planning.

EFAA also asks for a comprehensive in-depth assessment of further potential due diligence obligations (incl. any further storage or notification obligations) regarding suitability and proportionality.

### **Option 2:**

EFAA questions the added value to introduce a central EU-register for tax service providers located in the Member States. Instead, EFAA advocates for a central EU-registration of tax service providers located in non-EU-countries combined with a prohibition for taxpayers located in the Member States not to engage non-registered tax service providers of non-EU-countries.

### **Option 3:**

In principle, EFAA welcomes the introduction of a compliance-based code for tax service providers located in the Member States and in non-EU-countries. Such a code could be an effective instrument in the fight against tax evasion and aggressive tax planning. The success of such a code depends particularly on its acceptance of the tax service providers' profession. Therefore, EFAA recommends developing such a code in close cooperation with national and European professional bodies and federations as well as relevant global initiatives. For example, the aforementioned IIESBA, has a project underway on [Tax Planning and Related Services](#).

### **Notification obligations of EU taxpayers**

In principle, EFAA welcomes the taxpayers' obligation to declare in their annual tax returns any participation above 25% of shares, voting rights, ownership interest in a non-listed company located outside of the EU. However, EFAA believes, that such a 25% -threshold could easily be circumvented, e.g., by pooling or by splitting shares into several organizational units of the taxpayer.

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EFAA for, the European Federation of Accountants and Auditors for Small and Medium-sized enterprises, is the umbrella organisation for national accountants and auditors' organisations whose individual members provide professional services primarily to SMEs. EFAA has 15 members throughout Europe representing almost 380,000 accountants and auditors.