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NOTE ON AUTOMATIC EXCHANGE OF INFORMATION¹

Summary

This note was prepared by Mexico following discussions on Exchange of Information at the last Annual Session of the Committee of Experts. The aim of this research is to presents an overview of automatic exchange of information (AEOI) in light of some recent developments.

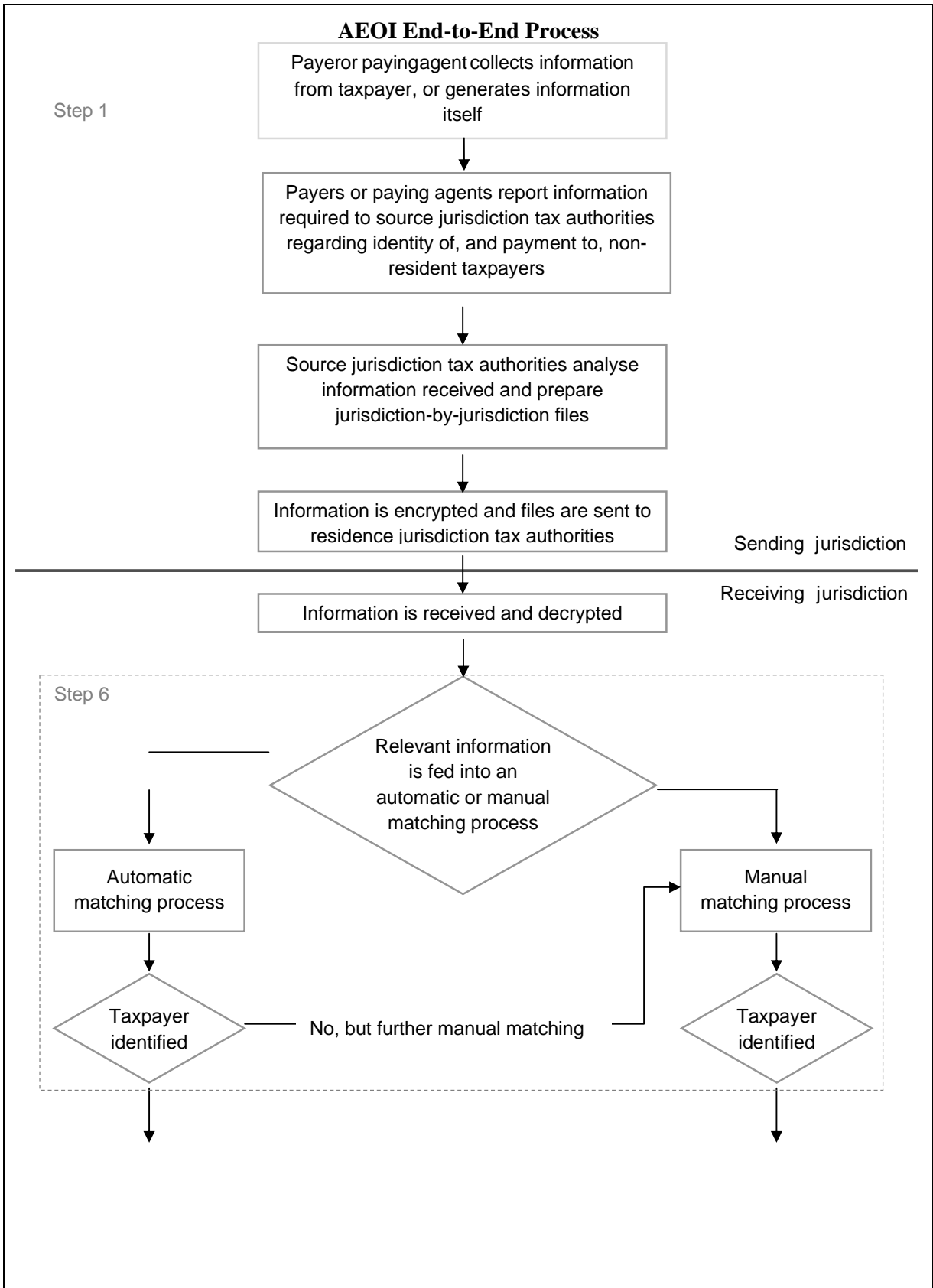
¹ Jorge E. Correa Cervera (Tax Administration Service, Mexico), 3 October 2013.

I. INTRODUCTION

1. At its eighth session, held from 15 to 19 October 2012, the Committee of Experts on International Cooperation in Tax Matters discussed recent developments on exchange of information. The Committee's discussion is summarized in paragraphs 62-63 of the report of

- x How does AEOI work?
- x Who can engage in AEOI?
- x Why engage in AEOI?
- x What developments are taking place with AEOI?
- x What role could the Committee play in relation to AEOI?

1.1 II. What is automatic exchange of information?



1.3 IV. Who can engage in automatic exchange of information?

9. To engage in an effective AEOI relationship, a jurisdiction needs to be able to obtain the information to be exchanged, to exchange such information and, at the same time, to ensure that the information received is adequately safeguarded.

10. From a legal perspective, domestic legislation needs to be in place for information to be reported to the tax administration of the sending jurisdiction, and to guarantee that that jurisdiction, when acting as both sending and receiving jurisdiction, adequately safeguards the information.

11. Also, to exchange the information, a legal basis is needed. Such basis is normally found in the following provisions:

- x The exchange of information provision of a double taxation convention based on Article 26 of the United Nations or OECD Model Convention.
- x Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters.⁴
- x For European Union (EU) Member States, the domestic laws implementing EU directives that provide for automatic exchange.

12. Additionally, some jurisdictions also require an agreement setting forth the terms and conditions of the future AEOI. Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters also requires a mutual agreement between the Parties willing to engage in AEOI. In general, such agreements detail the information to be exchanged, the procedures for sending and receiving such information, and the format to be used.

13. On the practical side, a jurisdiction needs to have in place the infrastructure for an effective AEOI relationship, such as established procedures for ensuring timelyA when el3(and th)-(A)-5.(equ)-5-

1.4 V. Why engage in automatic exchange of information?

14. As a tool to counter offshore non-compliance, engaging in AEOI could have a number of benefits:

- x It can provide timely information on non-compliance where tax has been evaded either on an investment return or the underlying capital sum.
- x It can help detect cases of non-compliance even where tax administrations have had no previous indications of non-compliance.
- x It has deterrent effects, increases voluntary compliance and encourages taxpayers to report all relevant information.
- x It may also help educate taxpayers in their reporting obligations, increase tax revenues and thus lead to fairness – ensuring that all taxpayers pay their fair share of tax in the right place at the right time.
- x In a small number of cases, jurisdictions have been able to integrate the information received automatically with their own systems such that income tax returns can be prefilled.

- x Communiqué, Meeting of Finance Ministers and Central Bank Governors, Moscow, 15-16 February 2013:

“20. [...] We strongly encourage all jurisdictions to sign the Multilateral Convention on Mutual Administrative Assistance. [...] We reiterate our commitment to extending the practice of automatic exchange of information, as appropriate, and commend the progress made recently in this area. We support the OECD analysis for multilateral implementation in that domain.”

- x Communiqué, Meeting of Finance Ministers and Central Bank Govern4T1 fo0rp9sc0 Tc0ssi

“51. We commend the progress recently achieved in the area of tax transparency and we fully endorse the OECD proposal for a truly global model for multilateral and bilateral automatic exchange of information. Calling on all other jurisdictions to join us by the earliest possible date, we are committed to automatic exchange of information as the new global standard, which must ensure confidentiality and the proper use of information exchanged, and we fully support the OECD work with G20 countries aimed at presenting such a new single global standard for automatic exchange of information by February 2014 and to finalizing technical modalities of effective automatic exchange by mid-2014. In parallel, we expect to begin to exchange information automatically on tax matters among G20 members by the end of 2015. We call on all countries to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters without further delay. We look forward to the practical and full implementation of the new standard on a global scale. [...] We also ask the Global Forum to establish a mechanism to monitor and review the implementation of the new global standard on automatic exchange of information.

52. Developing countries should be able to reap the benefits of a more transparent international tax system, and to enhance their revenue capacity, as mobilizing domestic resources is critical to financing development. We recognize the importance of all countries benefitting from greater tax information exchange. We are committed to make automatic exchange of information attainable by all

Tax Purposes and other concerned multilateral bodies and relevant international organizations.

- x Conducting technical meetings, seminars and other capacity-building or technical assistance events on AEOI (including confidentiality) for developing countries and countries with economies in transition, with concerned multilateral bodies and relevant international organizations.
