The participation of Ukraine in the international system of automatic exchange of information

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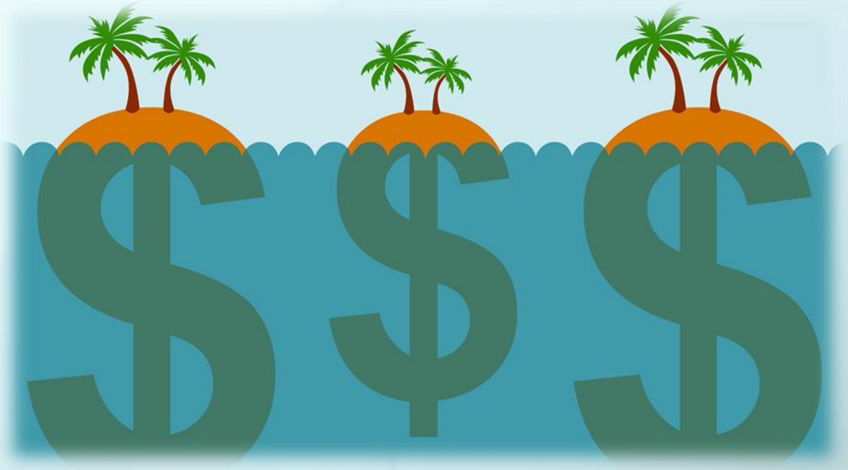
Nowadays the most developed countries are gradually implementing International Financial Reporting Standards (IFRS) in order to create favorable conditions for entering international markets and cooperation with foreign investors. However, globalization, the extreme mobility of capital and the impact of digital technologies on economic processes have changed the tax environment. International tax lows are full of gapes, and, as a result, fraudulent taxpayers use various tax base erosion and income shifting schemes, thus depriving governments of significant tax revenues.

Some of these schemes include *offshores*. Offshore is a country or territory that provides foreign organizations with the opportunity to do business on more favorable terms. Offshore can refer to a variety of foreign-based entities, accounts, or other financial services.

Offshore locations are generally island nations, where entities set up corporations, investments, and deposits.

Owners of offshore companies enjoy such privileges as tax avoidance, relaxed regulations, asset protection, simplified reporting, and the ability to stay confident with the names of the real business owners. The point is to create a mediating company registered in a jurisdiction with favorable tax conditions.

Although offshore institutions can also be used for illicit purposes, they aren't considered illegal. Offshore jurisdictions are used to generate fictitious financial documentation and make a fictitious economic activity look legitimate.



There are several types of offshoring: business, investing, and banking.

Offshoring business – the act of establishing certain business functions, such as manufacturing or call centers, in a nation other than where the company is headquartered. This is often done to take advantage of more favorable conditions in a foreign country, such as lower wage requirements or looser regulations, and can result in significant cost savings for the business.

One of the indicators that shows the rate of offshoring of the economy is the indicator of foreign direct investment. Direct investments from Ukraine in some offshore states are presented in the table.

Direct investments from Ukraine

№	Country	2015	2016	2017	2018	2019	2020
1	British Virgin Island	51,3	57,6	61,0	59,9	33,7	41,2
2	Cyprus	1401,5	1249,7	1214,5	1229,8	1431,4	1093,3
3	Latvia	69,8	68,4	60,9	72,5	73,0	81,1
4	The Netherlands	11,2	10,7	12,3	11,8	11,3	3,8
5	EU countries (The United Kingdom of Great Britain is not included)	1716,8	1562,3	1485,5	1510,2	2351,1	1923,5
Share of foreign direct investments from Ukraine in offshore states		0,61	0,58	0,56	0,58	0,67	0,68

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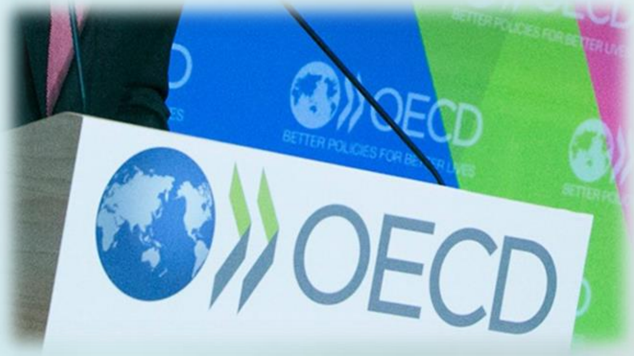
Offshore investing can involve any situation in which the offshore investors reside outside the nation in which they invest. This practice is mostly used by high-net-worth investors, as operating offshore accounts can be particularly high. It often requires opening accounts in the nation in which the investor wishes to invest. Some of the advantages of holding offshore accounts include tax benefits, asset protection, and privacy.

Offshore banking - Offshore banking involves securing assets in financial institutions in foreign countries, which may be limited by the laws of the customer’s home nation—much like offshore investing. Most entities do this to avoid tax obligations. Holding offshore bank accounts also makes it more difficult for them to be seized by authorities.

The international economic organization of developed countries - **Organisation for Economic Cooperation and Development (OECD)** – in September 2013 together with G-20 approved an action plan for combating the consequences of use base erosion and profit shifting schemes by companies – BEPS Actions. The aim of the plan is to combat aggressive tax planning of multinational corporations, prevent tax evasion, money laundering, corruption, and provide the transparency of taxation.

By presidential decree №180/2016, April 28th, 2016, Ukraine expressed its political will to join the OECD initiative, and on January 1st, 2017, joined the BEPS Actions. By joining the BEPS Association, Ukraine must implement the minimum standard of BEPS Actions, the four mandatory steps of which are presented on the slide.



Combat tax offenses related to the use of special taxation regimes

→ Avoiding the abuse of the tax conventions implementation

→ Presenting information of using the aggressive tax planning schemes

→ Increasing the effectiveness of mechanisms for resolving disputes regarding the application of contracts on the avoidance of double taxation between countries

In 2010, the US government passed the Foreign Account Tax Compliance Act, which spelled the beginning of the end for banking privacy. FATCA is a US law that forces non-US banks to provide the IRS with information about their US customers, whereas CRS – **the Common Reporting Standard** – is a global reporting standard that allows tax authorities from multiple countries to access information about their citizens' finances. Although both FATCA and CRS are information sharing standards used by governments to track citizens' use of offshore banks, CRS casts a wider net that affects more persons and jurisdictions than FATCA.

Automatic exchange of information under the CRS is an important instrument of the OECD's fight against tax evasion. The CRS, developed in response to the G20 request and approved by the OECD Council on 15 July 2014, calls on jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis. It sets out the financial account information to be exchanged, the financial institutions required to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures to be followed by financial institutions.

According to the OECD, in 2019, 100 tax administrations exchanged information on 84 million financial accounts that held about EUR 10 trillion in assets. Every year, the international network of automatic exchange expands - in 2020, 105 countries exchanged, and in 2021, 4 more countries will make their first exchange.

As of October 2022, there are over 4900 bilateral exchange relationships activated with respect to more than 110 jurisdictions committed to the CRS, with next exchanges between these jurisdictions set to take place at the end of September 2021.The relationships include those under the framework of Article 6 of the Multilateral Convention and the CRS MCAA, as well as exchange relationships based on bilateral agreements and the EU framework.

The Ukrainian government **has approved the draft letter** to the Global Forum of the OECD on the intention of the Government of Ukraine to implement an international standard for the automatic exchange of financial account information for tax purposes (CRS). Ukraine's intention to implement CRS will allow strengthening the image of Ukraine as a predictable partner, which aims to implement the best standards and to combat base erosion and profit shifting from taxation. In addition, this letter will officially begin the process of implementing the CRS in Ukraine.

Ukraine plans to carry out **the first exchanges** in September 2023 for the reporting year 2022.

Who is reportable?

According to the CRS, the reportable organizations are:

- financial organizations;
- insurance companies;
- banks;
- investment companies and investment trusts;
- investment advisors and managers;
- pension funds;
- companies whose main activity is related to the provision of services of nominal maintenance of financial assets.

The information reported to tax authorities will have been provided in the self-certification form, including:

- name, address, taxpayer identification number (tin) and date and place of birth of each reportable person.
- account number
- name and identifying number of the reporting financial institution;
- account balance or value as of the end of the relevant calendar year (or other appropriate reporting period) or at its closure, if the account was closed.
- capital gains, depending on the type of the account (dividends, interest, gross proceeds/redemptions, other)

State Tax Service of Ukraine must pass the necessary **inspections of the OECD Global Forum** and implement the software and administrative systems necessary for data collection and sharing for the proper level of information security management and effective use of received tax and financial information.

OECD FORUM

Conclusion

The introduction of the CRS will create conditions for Ukraine to join the effective international system of exchange of tax information by joining the Multilateral Agreement between the competent authorities on the automatic exchange of information on financial accounts.

This will:

- provide a more transparent tax environment and will help to counter the use of aggressive tax-avoiding schemes;
- increase the level of taxpayer compliance with tax legislation;
- prevent tax evasion.

THANK YOU FOR YOUR ATTENTION!