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THE DEVELOPMENT

OF INTERNATIONAL TAX INFORMATION EXCHANGE

IN INTERNATIONAL LAW, EU LAW AND HUNGARIAN LAW

New opportunities for tax authorities, limitations to protect taxpayers

THESIS OF PHD DISSERTATION

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Budapest, 2016. July
SUBJECT OF THE RESEARCH, HYPOTHESES

The subject matter of this research is the international tax information exchange, which is one of the most relevant areas of the international tax law nowadays from a practical point of view. In a strict sense, the international tax information exchange relates to the international tax law, and in a broader sense, it relates to international financial law. The purpose of this research is to analyze the main instruments, the legal aspects and main challenges of international tax information exchange.

The topic is extremely exciting and relevant, as the extension and development of the means of international tax information exchange is on the agenda, and the international community takes significant efforts to ensure the effective implementation of the regulations. The topic is relevant from the taxpayers’ perspective as well, since international tax information exchange has an impact on the taxpayers’ economic interests and individual rights. In the course of the research, my objective was to set down recommendations to further enhance the international tax information exchange both in the Hungarian and the international legal environment.

Being a practicing lawyer and tax advisor, I generally represent the taxpayers. Therefore, in my research, I was focusing on the taxpayers’ opportunities to protect their legal interests in the international tax information exchange procedure. This matter was not subject to particular attention in the past; however, its practical importance is uncontroversial.

The right to tax is one of the most important elements of the sovereignty of the states. Taxation is the fundamental instrument to ensure revenues to finance the state expenditures. In taxation, there is a conflicting tendency however: while states aim at increasing tax revenues and broaden the taxable base, taxpayers aim at minimizing their tax burden.

Taxpayers can easily manage their wealth and income globally. The states’ opportunities to exercise their taxing rights are however quite limited: generally, they cannot exceed the borders. This controversy raised the need to develop appropriate instruments to tackle international tax evasion and tax avoidance. This latter tendency can only be tackled through joint action and international standards. The international tax information exchange could be a useful instrument for national authorities to collect information on resident taxpayers’ activities in other states, and thus more effectively apply their national tax regulations. This is why international tax information exchange is a hot topic on the agenda of the international organizations, the European Union and the national states. The objective is to create a global
network of tax information exchange, which increases transparency between states. The most significant step forward could be the implementation of the automatic exchange of information, which could become reality in the near future.

When analyzing the topic of international tax information exchange, I started from the following main hypotheses:

- International tax information exchange is a matter of international tax law; international tax law is a separate, autonomous area of international financial law, having outstanding practical importance;

- International tax information exchange is a significant instrument to resolve international tax law conflicts; especially, it aims at tackling tax avoidance;

- Existing legal instruments in the field of international tax information exchange are diversified; various states and organizations developed different models, that could be controversial; using different (conflicting) instruments could undermine the effective implementation of the international tax information exchange; moreover, it could adversely effect the organizations participating in the exchange of information; in order for the international tax information exchange to function properly, it is inevitable to coordinate between various legal instruments and apply standardized, common rules.

- The European Union made the most significant steps in the field of international tax information exchange, both at the level of the legislation and law-enforcement; the EU regulations consider the automatic exchange of information as a key area, and in the last couple of years coordination with other international legal instruments is an outstanding topic; the biggest challenge in future is the implementation of the automatic exchange of financial account information, that should become applicable in the Member States as of 2017.

- The implementation of the international tax information exchange rules requires the protection of the taxpayers’ rights. The states’ interest to collect tax revenues cannot violate the taxpayers in an unproportional way; in order to protect taxpayers, common international standards should be adopted, and the enforcement of the rights should be guaranteed; there is a need to create a balance between the states and the taxpayers conflicting interests.
• Hungary follows the international developments in the field of international tax information exchange; it is of outstanding importance that the Hungarian practise properly implements the underlying rules and provides with the protection of the taxpayers’ rights at the level of the legislation.
METHODOLOGY OF THE RESEARCH

The methodology of the research is analyzing legal theories, examining the history of law, and conducting legal comparison. The outcome of the research is based on analytical studies mainly.

The thesis is divided into three main structural parts. I used different methodologies when elaborating my findings in the three various areas.

The first structural part regards the definition of the scientific background of the research and the main concepts subject to analysis. In this part, focus is on the concepts and importance of international financial law and international tax law, on international tax law conflicts and conflict resolution. International tax information exchange, being an important instrument to dissolve conflicts, is a key issue. This part of the thesis is mainly based on the analysis of legal theory.

The second structural part examines the legal instruments of international tax information exchange, and can be divided into further subparts. First, I focus on the historical development of international tax information exchange, then analyze and evaluate the existing most relevant legal instruments. Especially, double tax treaties, tax information exchange agreements, the Swiss Rubik-agreements, the FATCA regulations, the OECD Multinational Convention, the Common Reporting Standard and the OECD BEPS efforts are analyzed in detail. Considering that the European Union made the biggest practical developments in the field of international tax information exchange, key focus is on the legal instruments adopted at the EU level, including the relevant case-law where applicable. At this stage, I elaborate on the concept and main features of European tax law. In this structural part, the analysis of legal history is the main methodology when examining the historical development of international tax information exchange; the legal instruments are studied based on an analysis of the legal norms, while the comparative research prevails when examining the advantages and disadvantages of the various legal instruments and analyzing their relationships.

The third structural part focuses on the taxpayers’ rights, which requires, further to the analysis of international tax law, the study of concepts related to constitutional law, fundamental rights and tax procedure. In my view, the protection of the taxpayers’ rights in the international tax information exchange procedure is fundamental, as we cannot sacrifice
the taxpayers’ rights in order to ensure the states’ interest to collect tax revenues globally. When examining taxpayers’ rights, focus is on the one hand on fundamental rights (secrecy, data protection, etc.) and on the other hand, on procedural rights (notification right; participation rights; right to appeal, etc.). As the protection of taxpayers’ rights was not a key issue in the past, it is inevitable to set down the minimum standard for taxpayers’ protection. Specific focus is on how to ensure a more effective taxpayer protection. In this structural part, the comparative analysis dominates the research.

In the course of the research, the Hungarian implementation of the legal instruments of international tax information exchange had special attention. Hungary, as member of the OECD and the European Union, actively supports the adoption of the rules on international tax information exchange. At the end of each section, there is a short summary about the application of the single legal instrument in Hungary. In addition, there is a detailed analysis about the taxpayers’ protection in Hungary, and recommendations for future development.
FINDINGS OF THE RESEARCH

International tax information exchange is an area of international tax law; international tax law is a separate, autonomous field of international financial law, having outstanding practical importance.

In order to analyze the aspects of international tax information exchange, first I had to define how international tax information exchange could be classified in the fields of law and the system of legal branches. This was inevitable as there is no common understanding in legal theory regarding the classification and concept of international tax law and international financial law.

International financial law, that is the broadest framework of international tax information exchange, is based on the legal theory of international public law, international economics, financial law and financial studies. Furthermore, it is closely related to other fields of law. The study of certain issues of international financial law started with Lippert\(^1\) at the end of the 19th century, and continued from the second half of the 20th century. Lippert and his followers considered international financial law as part of international law, emphasizing that international financial law is based on international law instruments.

In Hungarian legal literature international tax law is considered as a unique area of international financial law\(^2\), where international financial law is defined as the set of legal relationships governed by financial-law-related international contracts, conventions and agreements.\(^3\)

In Hungarian legal theory Nagy Tibor\(^4\) made the most significant contribution to develop the concept of international financial law.\(^5\) Nagy Tibor considered international financial law as a separate legal branch, rather than a separate area of financial law only. Nagy Tibor argued that the complexity of the legal instruments, the practical importance, the extensive legal theory

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\(^2\) For more details see Simon István, Pénzügyi Jog II., Chapter 9.- Part VIII.: Nemzetközi Pénzügyi Jog; Osiris, 2012

\(^3\) Simon (2012)


and broad jurisprudence all support international financial law to be treated as a separate legal branch.\textsuperscript{6}

As a result of my research, share the view of Nagy Tibor to treat international financial law as a separate legal branch. Using Nagy Tibor’s legal theory as a starting point, I define international financial law as follows: international financial law is the whole of all financial-law-related international contracts, conventions, agreements and practises that aim at resolving international financial law issues, preventing and dissolving conflicts. International financial law relationships set obligations to states, international organizations and integrations mainly, however, indirectly affect private law relationships. The increasing practical importance of international financial law is to be emphasized, as international financial law has a major impact on state budgets and domestic economy. International financial law creates an autonomous regulatory framework, supported by unique fundamental principles. As main fundamental principle, sovereignty is key: sovereignty is the basis of international financial relationships and the main source of conflict. All these support international financial law to be treated as a separate legal branch.

*International tax law* is a specific field within international financial law. Researches on international tax law started in the 12th century in various scientific works.\textsuperscript{7} International tax law means the set of legal norms aiming at resolving tax law conflicts arising out of transactions with international elements.\textsuperscript{8} As it is outlined by Erdős Éva, international tax law is double-faced, since international tax law not only resolves international tax law conflicts, but also creates them.\textsuperscript{9}

In legal literature, it is customary to use a strict and a broad concept of international tax law. International tax law in a strict sense means the set of legal norms aiming at resolving conflicts arising out of controversies and discrepancies between national tax laws. International tax law in a broad sense means all domestic tax laws adopted by the national tax systems, in which rules to tax non-resident taxpayers or foreign income appear and conflict with the national tax laws of another state.\textsuperscript{10}

\begin{flushright}
\textsuperscript{7} First in Jacobus’s works, see Lippert 1912, 11. p.
\textsuperscript{9} Erdős (2007), 267. p.
\textsuperscript{10} Erdős (2007), 269. p.
\end{flushright}
As a result of my research I adopt the broad concept of international tax law. The international tax law instruments, such as double tax treaties, cannot be interpreted separately; a complex practical approach is needed when resolving international tax law conflicts. In this context, national domestic laws, EU law requirements, and international instruments should apply parallel, and these rules should be coordinated to resolve international tax law conflicts. As an example, in the application of double tax treaties, the international treaties override domestic rules; however, if the domestic laws are more favorable, domestic laws shall prevail. Furthermore, double tax treaties frequently refer back to definitions in domestic laws\(^{11}\). Consequently, it is inevitable to take into consideration the domestic (tax) laws rules related to the resolution of international tax law conflicts.

**International tax information exchange is a fundamental instrument to resolve international tax law conflicts**

International tax information exchange is the form of tax assistance that enables states to share tax information with other states regarding domestic taxpayers, when foreign elements appear in a tax law relationship. The framework of international tax information exchange is governed by international or intergovernmental agreements, further to domestic tax laws.

International tax information exchange is a developing area of international tax law, which aims at resolving international tax law conflicts. International tax law conflicts are numerous, the most important are double or multiple taxation, tax avoidance, harmful tax competition and positive and negative discrimination\(^{12}\). These are defined in detail in the research paper. Focus is on tax avoidance, as international tax information exchange mainly aims at resolving this international tax law conflict.

Tax avoidance is generally defined as a legal way of minimizing taxes, whereby the taxpayer utilizes loopholes and inconsistencies in the tax system to reduce the tax burden\(^{13}\). A typical form of tax avoidance is when the taxpayer stipulates contracts and establishes business relationships in a way that as a whole it results in a favorable tax position. In the case of tax

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\(^{11}\) For the interpretation of double taxation treaties see Vogel, K., Double Tax Treaties and their Interpretation, in International Tax and Business Lawyer, 1986, and Garbarino, C., Manuale di Tassazione Internazionale, IPSOA, 2008, 143-148 p. Regarding the interpretation of double tax treaties the Vienna Convention on international treaties is also relevant; the Vienna Convention generally governs the interpretation of international treaties, and was approved in 1969 by the Vienna diplomatic congress. The convention applies also to double conventions. Hungary implemented the Vienna Convention by means of Regulatory act 1987/12.


avoidance no specific legal norms are violated, however, the laws are inappropriately used as a result of conduct contrary to the spirit of the laws.\textsuperscript{14} Tax avoidance is legal in the sense that no legal provisions are disregarded; however, abuse of law as a subjective element can be detected.\textsuperscript{15}

Next to tax avoidance it is common to use the concept of 'aggressive tax planning’. This concept is common in European tax law. Aggressive tax planning is close to tax avoidance; however, it is on the margin between legality and abuse of law. The taxpayer uses loopholes and inconsistencies in tax laws to reduce the tax burden, however, the abuse of law cannot be established clearly. As aggressive tax planning and tax avoidance is often hardly separable and international tax law applies the same instruments to avoid tax avoidance and aggressive tax planning, when I use the concept of tax avoidance I also refer to aggressive tax planning.

\textit{Existing legal instruments in the field of international tax information exchange are diversified; in order for the international tax information exchange to function properly, it is inevitable to coordinate between the various legal instruments}

International tax information exchange developed significantly in the last decade. Various international organizations, political interest groups and states discussed the issue and developed different solutions.

In the course of my research I analyzed in detail the development of the information exchange process and the single legal instruments. Starting from the examination of double tax treaties and tax information exchange agreements, through the analysis of the specific Rubik-agreements, I end up with the analysis of the legal instruments on automatic exchange of information, including the instruments adopted by the United States, the OECD and the EU (FATCA, Multilateral Convention, CAA, CRS, OECD BEPS, EU Savings Directive, Directive on Administrative Cooperation).

As a result of a comparative analysis of the legal instruments, it is proven that the currently available legal instruments are very diverse, and the various instruments have different good qualities or shortcomings. Also, there are several inconsistencies between the single legal

\textsuperscript{14} Deák Dániel: A pozitív jog csődje: Adóelkerülés és adóparadicsomi tervezés, visszaélés az alapvető EK szabadságokkal, 93. p.
\textsuperscript{15} Deák Dániel: A pozitív jog csődje: Adóelkerülés és adóparadicsomi tervezés, visszaélés az alapvető EK szabadságokkal, 93. p.
instruments, causing difficulties in the application of the norms, and increasing costs for organizations participating in the information exchange.

The international community agrees that the automatic exchange of information and the increased cooperation between tax authorities are the most effective ways to tackle international tax avoidance. Adopting the new standard, however, is the first step only to start a new era. Automatic exchange of information can only become a practically applied international standard if all participating states apply the rules based on common, standardized procedural rules. In order to accomplish this, the following steps are needed:

- There is a need for coordinated approach between the various models. The various instruments cannot be applied parallel in a controversial way. The OECD holds that the existing international agreements can serve as a legal basis for automatic exchange of information, but the procedural rules should apply in a uniform way, according to CRS. The EU made significant steps towards a uniform application of the laws, when amended the DAC to comply with the automatic information exchange standards and abolished the EU Savings Directive.

- FATCA had a huge impact on CRS, however, there are significant differences between the two systems. In practise, this would lead to conflicts that should be avoided. It would be burdensome for financial institutions if they had to use different systems depending on the states concerned about tax cooperation.

- Automatic exchange of information should be introduced at the same time in all countries. If any of the states refuses to apply the standard, national governments and tax authorities will be unable to obtain useful information: taxpayers involved in tax avoidance can easily transfer their center of business.

- Mutual cooperation is also a key element. A globally applicable automatic information exchange can only be efficient if all participating country uses the same rules. The OECD CRS already includes the opportunity to suspend the application of the system, if any of the states fails to comply with the rules, including especially secrecy regulations or the identification of controlling persons. Mutual application is a delicate issue especially for the US, in the case of the IGA 1 Model.
The European Union made the most significant steps in the field of international tax information exchange

In EU Member States the dissolution of tax law conflicts is governed by an additional level compared to international tax law. European law aims at resolving conflicts by the means of tax harmonization.

In the field of international tax information exchange, the European Union was a pioneer when started to apply automatic information exchange for savings taxation. The procedural rules and technical standards developed in the course of applying the Savings Directive served as an example for the international community. The automatic exchange of information was first extended to new income types as of 2015, covering income from employment, income of managing directors, life insurance, pensions and real estate income. The next challenge will be the further extension of automatic exchange of information to financial account information in 2017. This latter cooperation is governed by the DAC.

Tax harmonization is not governed by positive laws in most of the cases: on the one hand, soft law, and on the other hand, the negative harmonization adopted by the European Court of Justice can be the basis for tax harmonization. Examples for soft law instruments are the recommendation to combat aggressive tax planning, various action plans and communications from the Commission. Example for the negative harmonization is the ECJ case-law analyzing the relationships between double tax treaties, EU law and national tax laws\textsuperscript{16}.

The European Union strongly cooperates with the OECD in order to develop the information exchange rules, and seeks to resolve the conflicts arising out of the inconsistencies between the international regulations (OECD, FATF) and the EU standards. Consequently, EU law was first to implement the technical (data transfer, data format, etc.) requirements included in the CRS and CAA, in order to avoid the parallel application of different rules in the Member States. Implementing the international standards simplifies, fastens and makes more cost-effective the practical application of automatic information exchange.

Furthermore, it is another outstanding development that the EU is working on the introduction of a more transparent, statutory and uniform (CbC) system for multinational enterprises in the field of corporate income taxation, in conformity with the OECD BEPS project.

\textsuperscript{16} E.g. Schumacker, Avoir Fiscal, Gilly
Summarizing in brief, European tax law closely follows the international developments in the field of international tax information exchange. In the near future, implementing the FATCA rules could be a challenging task for the EU. In this regard, no uniform practice in the Member States was developed yet. Action by the means of tax harmonization could be necessary.

**Implementing the international tax information exchange rules requires the appropriate protection of the taxpayers’ rights**

In the course of my research, I paid particular attention to the taxpayers’ rights in the international tax information exchange procedure. The starting point was that in the international tax information exchange procedures no uniform rules have been established for the protection of taxpayers. The detailed analysis of the taxpayer protection rules in international legal instruments and domestic legislation proved that the protection of taxpayers was not a central issue, and had minor importance compared to the interest to guarantee effective information exchange.

Neither the legal instruments of international tax information exchange, nor the international conventions governing fundamental rights provide for uniform and effective taxpayer protection, and domestic rules differ from country to country. The biggest challenge is that even if legal protection is granted at the level of the legislation, taxpayers face difficulties to enforce the rules in cross-border situations. Therefore, taxpayers are defenseless against the authorities involved in tax information exchange.¹⁷

As a result of my analysis, I came to the conclusion that in the course of the international tax information exchange procedure, taxpayer rights can be violated at various stages:

- First, when the requesting state launches the request for information, provided that the request is unlawful or violates the taxpayers’ legitimate interests;

- Second, in the procedure conducted in the requested state, especially if the requested state needs to gather information in order to meet the request; moreover, taxpayer rights also come into question if the request could be rejected and the requested state needs to

evaluate the conditions for this; furthermore, taxpayer protection comes into question if illegally obtained information is transmitted to another country;

- Third, in the requesting state, when the requesting state delivers a decision based on the information acquired.

The development of the international tax information exchange procedure requires that taxpayers receive appropriate legal protection in the course of the whole procedure. This statement applies to the protection of fundamental rights and procedural rights either. In order for the taxpayers to receive appropriate legal protection in the course of the international tax information exchange procedure, it would be to consider the information exchange procedure as a separate, autonomous administrative procedure, and grant appropriate taxpayer protection in each single stage of the procedure, taking into account the specific features of the procedure. Especially, there is a need for recognizing notification rights, participation rights and the right to appeal, that could enhance the enforcement of fundamental rights.

Effective taxpayer protection could be granted if the taxpayer would be notified about the information request, before the request is transmitted to the other state. Only few exceptions could apply to this rule, if the notification would undermine the outcome of the information exchange. In order to provide clarity for taxpayers, uniform rules would be required to define the scope of exceptions. Taxpayers would be notified about the request also in this case, however in a later stage of the procedure.

Further to notification rights in the requested state, taxpayers should be in the position to defend their rights also in the requested state. Participation rights in the tax procedure conducted in the requested state can fulfil this role. Taxpayers should be able to prevent transmitting the unlawfully gathered information to the other state. In order to provide with effective legal protection, filing an appeal should suspend the information exchange procedure. Once the information is transmitted, the taxpayer is no more in the position to challenge the requested states’ failures in procedure. The requesting state cannot revise any failures in the requested states’ procedure.

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18 This approach is close to the OECD’s approach. The OECD holds that states can provide with the right to notification, however, they need to provide with exceptions for cases in which notification can undermine the effective information exchange.

19 See also Oberson (2015) 242. o.
If the requested state does not provide with legal protection in the information gathering process, it is extremely important for the taxpayers to be able to challenge in the requesting state, in the final stage of the procedure, the decision-making procedure and the documentary evidence used. This requires that the taxpayer is informed about the main content of the information acquired in the information request, and in the position of challenging the legal value, quality and trustworthiness of the information by means of appropriate legal remedies.

Since the various states have different practice, a statutory, uniform minimum standard for taxpayer protection should be defined in the international legal instruments of tax information exchange. Further to the rules, law enforcement should also be unified, in order to enable taxpayers to exercise their rights in practice.

De lege ferenda, the international legal instruments of international tax information exchange (e.g. CRS, DAC) could set down the statutory minimum standard for taxpayer protection according to the following rules:

- In the case of information request, taxpayers would be notified about the request at the beginning of the procedure, before the request is transmitted to the requested state; notification can only be avoided if there is sufficient proof that the notification could undermine the positive outcome of the procedure; if the notification is avoided, the taxpayer should be informed in a later stage of the process, and be in the position to challenge the omission of the notification;

- If the requested state performs an information gathering process, participation rights should be granted to the taxpayer; the taxpayer could be present at the information gathering events, view documents, take comments; if a serious violation occurs (e.g. acquiring information unlawfully; over the statutory limitation period), the taxpayer should have the right to appeal, and hinder forwarding the information to the requesting state;

- In the requesting state, the taxpayer could exercise the legal remedies flowing from the national legislation, to challenge the tax authority decision; also, appeal in front of an independent court should be available;

- In the case of automatic exchange of information, taxpayers should be informed in advance in all the cases about the fact of the automatic information exchange, and about
the data subject to exchange; this notification, if supported with appropriate timeframes, would enable the taxpayer to adjust the data subject to exchange, or, if the conditions fulfill, request the cancellation of the data; if the data transmitted in the course of the information exchange is held by persons (e.g. financial institutions) other than the taxpayer, the person transferring the information should notify the taxpayer in advance; the notification should cover the fact of the information exchange, the data concerned, the purpose of the exchange and the authorities receiving the information; appropriate technical conditions should fulfill to transfer, process and store the data, in order to avoid violating secrecy and data protection rules.

In order to ensure law enforcement, it would be recommended to include in the international instruments that states violating the rules would be excluded from information exchange, and could not receive any assistance from other countries participating in the exchange.

**The Hungarian legislation in the light of the international and EU law**

In the course of my research, I paid particular attention to the Hungarian implementation of the international legal instruments and the EU laws. As a result, it is proven that the Hungarian legislator is committed to the application of the automatic international tax information exchange. The Hungarian legislator regularly implemented the international and EU instruments, and complies with its related international obligations.

Notwithstanding to that, there is a lot to do in order to provide with appropriate protection for taxpayers in the international tax information exchange process.

Hungarian law, similarly to the practice of other European states, guarantees the right to privacy and data protection at the level of the constitution. Regarding the international tax information exchange procedure, the Hungarian legislator takes the view that the procedure cannot be treated as a separate procedure, but constitutes part of the information gathering process. As a result, no specific procedural rights are granted to taxpayers in the international tax information exchange process, neither in the Tax Procedure Act, nor in the Act on International Tax Cooperation.

The taxpayer would usually gain information about the exchange request, or the outcome thereof, when the Hungarian tax authority utilizes the outcome of the information exchange. It would be recommended, therefore, to notify taxpayers and provide them with participation
rights at the initial stage of the international tax information exchange process. This would require that the Hungarian legislator considers the international tax information exchange process as a separate, autonomous procedure.

As a result of my research, I set out detailed recommendations that could enhance taxpayer protection in international tax information exchange under Hungarian law. De lege ferenda, a potential amendment to the existing legislation could take various forms.

A simple solution could be if the Act on International Tax Cooperation would expressly provide that taxpayers shall be notified if the Hungarian Tax Authority processes an Act on international tax information exchange request to a foreign tax authority. Furthermore, the Act on International Tax Cooperation would also include that the notification should occur in the form set down in the Act on Administrative Procedures.

According to another solution, the Act on International Tax Cooperation would regulate the detailed rules of taxpayer notification in a separate section. In this case, the Act on International Tax Cooperation would expressly regulate the procedural deadlines, the form and content of the notification. The related provisions could be worded as follows:

- (1) Provided that no domestic legislation or international agreement provides otherwise, taxpayers shall be notified in advance about any request for international tax information exchange.

- (2) The notification should include the name and address of the requesting authority, the name and address of the requested authority, the subject of the request, and the explanation of why the tax authority considers the request foreseeably relevant to establish the taxpayers’ tax obligations; the notification shall include the information that the taxpayer can file written observations within 8 days from receiving the notification.

- (3) By way of exception, the notification can be omitted if it could seriously undermine the positive outcome of the procedure.

- (4) The taxpayer can file written observations to the request, within 8 days from receiving the notification. Filing written observations would not withhold the tax authority to send request, however, the tax authority could consider to not launching the request.
Regarding participation rights, it would be recommended to regulate at a legislative level (possibly in the Tax Procedure Act), that the right to view documents is fully granted to taxpayers also in the international tax information exchange process. As a result of the right to view documents, the taxpayer shall have the right to file written observations or take declarations. Furthermore, the taxpayer could be present at procedural investigations, verifications, and could suggest further evidence.

Taxpayers should be entitled in the international tax information exchange process to the same legal remedies as provided in the tax administrative procedure and during the tax investigation.

The development and practical application of automatic international tax information exchange will trigger new challenges to the Hungarian legislation and case-law. At the level of the legislation, it is of substantial interest to set down all procedural aspects that ensure the secure transfer of data and the fulfilment of the data protection requirements as far as the data holders are concerned. The rules should be supported with appropriate sanctions, in order to deter participants in data transfer to violate taxpayer rights.

I truly hope that the outcome of my research can effectively support the further development of international tax information exchange.
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