

Obligation to report tax arrangements and binding information pursuant to Section 89 (2) of the German Fiscal Code (AO)

The Further Development of the Information System as an Opportunity in the Fight against Abusive Tax Avoidance Strategies

Benedikt Kruse

Contact: benedikt.kruse@law-school.de

Supervisor: Prof. Dr. Birgit Weitemeyer, Chair of Tax Law, Director of the Institute for Foundation Law and the Law of Non-Profit Organizations

Abstract

Tax structures that are considered abusive are nowadays generally considered to be one of the main causes of fiscal revenue shortfalls and pose challenges to legislators around the world. Many countries have responded to this by introducing a mandatory tax scheme disclosure regime, including Germany.

In its present form, however, the mandatory tax scheme disclosure regime is not sufficiently capable of fulfilling the expectations associated with it, namely of being able to detect abusive tax arrangements through it.

Therefore, the aim of this thesis is to gain insights into whether, taking into account the regulatory effects of the mandatory tax scheme disclosure regime, the legislative objectives pursued by the mandatory tax scheme disclosure regime can be promoted by providing the taxpayer with a binding ruling for tax structures to be disclosed.

By analysing the duty to disclose tax schemes and comparing it with the binding ruling pursuant to § 89 (2) AO, possible legislative action required for better implementation of mandatory tax scheme disclosure regime is to be identified. The present thesis serves to clarify questions of doubt in the scope of application of the mandatory tax scheme disclosure regime and to submit proposals to the national legislator for a meaningful further development of the binding ruling regime.