When Privacy Crosses Borders:

Reflections on the Global Exchange of Tax Information

Introduction: From Sovereignty to Interdependence

For much of the twentieth century, taxation was seen as one of the clearest expressions of national sovereignty. States guarded taxpayer information as jealously as currency reserves, and cross-border demand for fiscal transparency was muted by legal secrecy and jurisdictional fragmentation. That paradigm has changed decisively. In the wake of financial globalization, digital capital mobility, and high-profile tax scandals, international cooperation in tax administration has evolved from a marginal technical exercise into a central feature of global governance.

Today, tax authorities routinely exchange sensitive financial and personal data across borders. What was once an exception—information sharing for criminal investigations—has become a systematic, multilayered framework encompassing bilateral treaties, multilateral conventions, and automatic reporting regimes. This transformation raises fundamental questions: Who may request tax information? Under what legal standards? How are taxpayer rights protected when data crosses borders? And what balance should be struck between transparency and sovereignty?

The Legal Architecture of Information Exchange

Bilateral Tax Treaties: The Original Framework

The foundation of cross-border tax information exchange lies in bilateral double taxation agreements (DTAs). Most modern DTAs contain an Exchange of Information (EOI) article, typically modeled on Article 26 of the OECD Model Tax Convention. These provisions permit competent authorities to exchange information that is *"foreseeably relevant"* to the administration or enforcement of their domestic tax laws.

Several features of these bilateral clauses are significant:

- Scope limitation: Information may be exchanged only for taxes covered by the treaty.
- Purpose limitation: Requests must relate to concrete tax enforcement needs.
- Anti–fishing expedition safeguard: Authorities are prohibited from speculative or blanket requests.
- Residence neutrality: Information may concern non-residents, provided a legitimate tax purpose exists.

Such provisions reflect a careful compromise. They recognize that tax evasion often operates across borders, while simultaneously preserving safeguards against abuse of investigative power. As the OECD itself observes, EOI provisions are not instruments of unrestricted curiosity but tools of targeted cooperation.

Exchange on Request (EOIR): Precision Over Volume

The Exchange of Information on Request (EOIR) system remains the most traditional and judicialized form of cooperation. Under EOIR, the requesting authority must demonstrate that the information sought is foreseeably relevant to a specific taxpayer and tax period. The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes has made EOIR compliance a benchmark for international legitimacy, subjecting jurisdictions to peer review and public ratings.

EOIR's strength lies in its restraint. It embeds procedural discipline, requiring requesting states to articulate the tax interest at stake. Yet that same restraint is also its weakness: EOIR depends on prior suspicion and is ill-suited to uncovering hidden income where no starting lead exists. This limitation became increasingly evident in the early 2000s, as offshore financial secrecy proved incompatible with globalized capital flows.

Automatic Exchange of Information: A Structural Shift

The decisive shift occurred with the advent of the Common Reporting Standard (CRS), developed by the OECD at the request of the G20 and launched in 2014. CRS introduced Automatic Exchange of Information (AEOI), obliging financial institutions to identify the tax residence of account holders and report account data annually to domestic tax authorities, which then exchange it with relevant foreign counterparts.

Unlike EOIR, CRS does not depend on suspicion. Its logic is systemic rather than investigative. As the OECD describes it:

"The Standard calls on jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis."

The effect has been transformative. According to OECD figures, more than 100 jurisdictions now participate in CRS, exchanging information on tens of millions of financial accounts each year.

Crucially, CRS is grounded in tax residence, not nationality. This distinction reflects international tax orthodoxy and seeks to prevent mismatches or over-reporting. It also underscores an important principle: automatic transparency is not a free-for-all but a structured allocation of reporting rights.

Multilateralism and the Decline of Fiscal Bilateralism

While bilateral treaties remain legally important, the center of gravity has shifted toward multilateral instruments. The Convention on Mutual Administrative Assistance in Tax Matters, ratified by more than 140 jurisdictions, provides a comprehensive framework covering EOIR, AEOI, tax recovery assistance, and service of documents. The UAE, for example, implemented CRS through domestic legislation ratifying this Convention and the related Multilateral Competent Authority Agreement (MCAA).

Multilateralism has delivered scale and consistency. Yet it has also diluted political accountability. Where bilateral treaties once reflected negotiated reciprocity, modern information exchange operates through dense networks in which individual taxpayers may struggle to identify which authority initiated a data transfer—or why.

Taxpayer Rights in a World of Data Flows

The expansion of tax transparency has reignited debates over privacy, proportionality, and due process. Tax data is among the most sensitive categories of personal information, revealing wealth, income sources, business relationships, and family structures. When such data moves across borders, legal protections often diverge.

The OECD recognizes this tension explicitly. Its standards emphasize confidentiality, data security, and use limitations, requiring that exchanged information be protected "in the same manner as information obtained under domestic law". Yet implementation remains uneven, and remedies for unlawful or excessive exchanges are limited.

A central concern is the potential function creep of information exchange—where data collected for tax purposes becomes attractive for non-tax uses. While treaties formally restrict such use, enforcement depends largely on trust between administrations.

Sovereignty Reimagined

Information exchange has subtly reshaped fiscal sovereignty. States remain free to define their tax bases, rates, and enforcement priorities, but they now do so within a web of mutual surveillance. Transparency has become not merely a policy choice but a condition of participation in global finance.

This shift is not without irony. Measures initially framed as tools against avoidance by the ultra-wealthy now apply broadly to ordinary globally mobile individuals and businesses. The legitimacy of the system therefore depends not only on effectiveness but also on restraint.

Conclusion: Toward Responsible Transparency

International exchange of tax information is neither an administrative footnote nor a temporary campaign. It is a structural feature of today's global economy. Bilateral treaties, OECD guidelines, and automatic reporting regimes together form an intricate architecture designed to address real risks of tax evasion and base erosion.

Yet transparency is not an end in itself. Its long-term acceptability depends on adherence to core principles: foreseeable relevance, proportionality, confidentiality, and respect for taxpayer rights. As data flows become ever more routine, the ethical challenge for tax authorities is not whether they can exchange information—but whether, and when, they should.

In the end, the credibility of the international tax system will rest as much on how power is restrained as on how effectively it is exercised.

References

- OECD, *Global Forum on Transparency and Exchange of Information for Tax Purposes* [oecd.org]
- OECD, *Consolidated Text of the Common Reporting Standard* (2025) [oecd.org]
- OECD, *Automatic Exchange of Information – Exchange Relationships* [oecd.org]
- UAE Ministry of Finance, *Automatic Exchange of Information (CRS & FATCA)* [mof.gov.ae]
- OECD, *List of AEOI-Compliant Jurisdictions*

Case Study: UAE & France

1.1 France–UAE Double Tax Treaty (DTT)

The France–UAE tax treaty, signed 19 July 1989 (effective 1990, amended 1993), contains a standard Exchange of Information (EOI) article aligned with the OECD Model Tax Convention. The treaty explicitly provides for cooperation "to prevent tax evasion and fiscal fraud".

Key characteristics (OECD-standard):

- Information may be exchanged only if foreseeably relevant
- Requests must relate to taxes covered by the treaty
- Information cannot be requested for *"fishing expeditions"*
- The requested person need not be resident, but the request must serve a legitimate French tax enforcement purpose

This aligns with OECD Article 26 principles, incorporated into bilateral treaties following international transparency standards.

1.2 Taxes covered by the France–UAE treaty

The treaty applies only to specific taxes, notably:

- Income tax
- Corporate income tax
- Real estate wealth tax
- Inheritance tax

If none of these taxes are potentially applicable in France, the treaty's EOI clause cannot be used purely for curiosity or residence verification alone.

2. CRS (Common Reporting Standard) vs EOIR

2.1 CRS – Automatic Exchange of Information

The UAE and France are both CRS participating jurisdictions, exchanging financial account data automatically since 2018.

However:

- CRS reporting is based on tax residence, not nationality
- UAE financial institutions identify the account holder's tax residence
- Data is sent only to the jurisdiction of tax residence

Therefore, if the individual is correctly declared as Swiss tax resident, CRS data flows (if any) go to Switzerland, not France.

France receives CRS data only if the person is reported as French tax resident or has French-reportable accounts.

2.2 EOIR – Exchange of Information on Request

EOIR is governed by:

- The France–UAE tax treaty
- The OECD Global Forum EOIR standard
- UAE implementation laws (e.g. Federal Law No. 54 of 2018)

Under EOIR:

- Requests must be specific, justified, and foreseeably relevant
- The requesting state must show a legitimate tax purpose
- Requests cannot be speculative or for general monitoring [oecd.org]

3. French taxing rights over non-residents

3.1 French domestic law

France taxes non-residents only on French-source income, pursuant to Article 164 B of the French Tax Code:

- Employment physically carried out in France
- French real estate income
- Certain French-source dividends or capital gains

Foreign income of non-residents is outside French taxing jurisdiction.

3.2 Treaty override

Tax treaties prevail over domestic law. Under the France–UAE treaty:

- If the individual is not French tax resident, France may tax them only on French-source income, if any
- If no French-source income or assets exist, France has no taxing nexus

Accordingly, France normally lacks any tax enforcement interest in purely foreign income earned via a UAE company by a Swiss-resident individual.

4. Application to the stated facts

Given facts:

- French nationality
- Swiss tax resident
- No French residence
- No French source income
- No French bank accounts
- UAE company ownership
- UAE residence visa

The DGFiP in France requested the UAE FTA share tax information regarding a French national with the above circumstances. That person felt this was a "fishing expedition" on the part of the DGFiP, which the OECD specifically states must not be a reason for the request. Was this natural person correct in his assumption?

4.1 CRS

- CRS data (if any) should be exchanged between UAE and Switzerland
- France has no automatic entitlement under CRS

CRS does not justify the DGFiP request

4.2 EOIR under the France–UAE treaty

France could request information only if it can demonstrate:

- A specific French tax risk
- Pertaining to a covered French tax
- Supported by concrete indications (not speculation)

Examples where a request might be justified:

- Suspected false French tax residency
- Undeclared French source income
- Exit-tax enforcement (CGI art. 167 bis)
- Abuse of treaty benefits

However, none of these triggers are present in the scenario as described.

Under OECD EOIR standards, requests must not be “fishing expeditions”

5. Conclusions

What France is allowed to do

- Request information if it can show a specific and lawful French tax purpose
- Investigate residency challenges, but only with evidence
- Request information related to French-source taxes

What France is not entitled to do

- Request UAE financial data solely because of French nationality
- Use EOIR to explore foreign assets where no French tax exposure exists
- Bypass CRS allocation rules
- Conduct speculative or blanket investigations

Final assessment

On the facts provided, the DGFiP does not appear entitled under either CRS or EOIR provisions of the France–UAE treaty to request general financial information from the UAE regarding the individual or DeeCo, unless France can demonstrate a specific, legally grounded French tax risk. Without such a nexus, the request risks being non-compliant with OECD standards and challengeable under both UAE and international law.

Put differently it is logical and reasonable to conclude the French Tax Authority’s request is a “fishing expedition” of the type which the Treaty prevents. This can be seen from:

“The information and documents collected or provided to the Ministry or any related entity in accordance with the provisions of this resolution shall be confidential and may not be disclosed except in accordance with the provisions of international treaties and conventions and legislation in force in the UAE.”

The final takeaway is that natural persons who intend to permanently emigrate from their home country, should update their tax authority before final departure, and do the same with their bank, given that banks share their customer’s information with said tax authority.

Key references
France–UAE Tax Treaty (EOI provisions) [taxconsult...tdubai.com], [clemenceaugroup.com];
OECD Global Forum – EOIR standard [oecd.org];
UAE CRS & AEOI framework [mof.gov.ae];
OECD CRS exchange relationships [oecd.org]
French rules for non-residents [impots.gouv.fr], [welcometofrance.com]

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