





The OECD can only wring it's hands in frustration that

Taxpayer's or Client's ability to obtain confidential advice. As such, domestic law in the jurisdiction of the Intermediary may have the effect that some or all of the information required to be disclosed under the model rules will be covered by the relevant domestic rules on legal professional privilege. Such information would be excluded from the disclosure requirements, but only to the extent that an

information request for the same information could be denied under Article 26 of the OECD Model Tax Convention and Article 21 of the Multilateral Convention on Mutual Administrative Assistance in Tax

MDR also refers to legal privilege exemption in the MCAA, which means it covers exchange

on demand and the CRS

such an important type of intermediary is exempt from reporting on structures that result in non reporting by CRS So how did the enuchs retort?



MDR page 41 Reportable Taxpayer required to disclose in certain circumstances 83. The primary intention of these mandatory disclosure rules is to target Intermediaries that are responsible for the design, promotion or implementation of CRS Avoidance Arrangements and Opaque Offshore Structures. However, consistent with the framework for mandatory disclosure rules set out in the BEPS Action 12 Report, it is also necessary to consider the implications for the user of a CRS Avoidance Arrangement or Opaque Offshore Structure if the Intermediary is not subject to disclosure obligations as well as those cases where the Intermediary is unable to comply with its disclosure obligations under these rules. 84. The model rules impose a direct disclosure obligation on Reportable Taxpayers where the Intermediary is not required to comply with the disclosure obligations in the reporting jurisdiction either because it has no nexus with that jurisdiction under Rule 2.1 or because it is relying on an exemption from disclosure under Rule 2.4. 85. The liability to disclose attaches automatically to the Reportable Taxpayer. The Reportable Taxpayer shall be required to provide all the information set out in Rule 2.3 in respect of that Reportable Taxpayer and the Arrangement or Structure that is within that person's knowledge possession or control. However, no disclosure is required to the extent that the Reportable Taxpayer has written notification that the Intermediary has disclosed the same information to the tax authority of a Partner Jurisdiction under equivalent mandatory disclosure rules. Intermediaries would generally be expected to provide their Clients with a copy of any disclosure that had been made in respect of a reportable Arangement so that the Clients could establish that they had no further disclosure obligations under this section (subject to any regulatory requirements or other restrictions on providing this information to Clients).

• Get this folks.. if no intermediary has to report becaue (a) they are located in a MDR nonparticipating jurisdiction (e.g., Switzerland, Norway), or (b) they are exempt due to legal privilege, then the user of teh scheme which results in no CRS reporting must turn himself in as well as all thos ethat helped him. Under threat of "bigly" penalties. • Brilliant idea to rely on a self-dob in.

Summary

