ACCOUNTANCY EUROPE.

Policy update

Tax Policy Update

5 – 16 February

HIGHLIGHTS

- European Parliament: mandate of TAXE III Committee approved by Conference of Presidents – 8 February
- Other news: group of multinationals publishes recommendations for responsible tax principles – 9 February
- European Commission: different options for EU long-term financing presented, including CCCTB – 14 February

European Commission

European Commission PRESENTS DIFFERENT OPTIONS FOR EU'S LOng-term budget, including CCCTB – 14 February

The European Commission has presented various options – and their financial consequences – for a new long-term EU budget for the post-2020 and -Brexit period.

The options do not reflect the Commission's own proposals or preferences. The Commission merely quantifies the financial impact of various possible policy choices based on ideas frequently put forward in the public debate. The objective is to inform member states' and wider discussions on the future of the EU budget.

Of particular interest, the financing options include provisions around VAT-based own resources and financing through a CCCTB.

On VAT, the Commission argues that a reformed Own Resource could be levied from a simplified VAT base. Revenues from the current VAT-based Own Resource are currently around EUR 105-140 billion over seven years and could be adjusted by calibrating the call-rate in function of required levels.

On CCCTB, the Commission speculates on a contribution based on a harmonised corporate tax base, possibly including a digital component. This would not infringe upon tax rates, as each member state would retain the possibility to tax its share of the profits at its own national tax rate. Depending on the model chosen and the call-rate applied, a tax linked to the CCCTB could in the Commission's assessment bring between EUR 21 and EUR 140 billion over seven years, not including expected revenue from a potential decrease in tax evasion.

In terms of next steps, the Commission will table its formal proposal for the next long-term EU budget in the coming months, at the latest in early May 2018.

Commission launches compliance check to assess whether businesses are refunded VAT quickly enough in all Member States – 15 February

The European Commission has launched a compliance check to assess whether VAT refunds to business in EU member states are in line with current EU law and case law of the European Court of Justice.

The Commission states that a lack of access to a simple and fast VAT refund procedure can have a major impact on cash flows and on the competitiveness of businesses, and in particular smaller ones. Therefore, over the next eight months tax provisions in each member state will be scrutinised to ensure that refund procedures allow businesses to quickly and easily recover VAT credits both in their own country and in other EU countries.

The study will examine, for example, the length of time it takes to complete procedures in each country and any unnecessary hurdles in the system which can create financial risks for business. The Commission could decide to launch infringements procedures in cases of non-compliance with the rules.

European Parliament

Mandate of the new tax Committee approved – 8 February

The European Parliament's Conference of Presidents has unanimously approved the mandate for a new special Committee on tax, provisionally titled 'TAXE III'.

The mandate's scope is wide, covering corporate and personal income taxes, VAT (possibly due to some of the VAT-related schemes revealed by Paradise Papers), golden passports, taxation of the digital economy, money laundering, "tax havens" and more. The Committee will also study "newest developments", such as the Paradise Papers. The main target will again be tax optimisation practices of multinationals as with the previous TAXE Committees, but with an additional money laundering dimension as with PANA Committee.

The Committee will consist of 45 MEPs, will put forward a report with recommendations prepared by two rapporteurs, and will run for a period of 12 months – until February 2019.

In terms of next steps, the European Parliament Plenary will vote on 1 March on the responsibilities, numerical strength and term of office of the new Committee – a mere formality now that the Conference of Presidents has approved the mandate. The Committee will aim to hold its first meeting on the same week.

International

More US Firms Announce Investments After Tax Cuts – 31 January

Reportedly, 287 companies have announced wage increases or plans to expand their investments in the US as a result of the recently adopted tax reforms. These companies include, amongst others, The Home Depot, Starbucks, FedEx, and Exxon Mobil.

OECD

OECD announces further developments in BEPS implementation – 8 February

The Inclusive Framework on BEPS has released additional guidance for tax administrations and multinationals on the implementation of CBCR (BEPS Action 13). The new guidance addresses two specific issues: the definition of total consolidated group revenue and whether non-compliance with the confidentiality, appropriate use and consistency conditions constitutes systemic failure. Moreover, the Inclusive Framework approved updates to the results for preferential regime reviews conducted by the Forum on Harmful Tax Practices (FHTP) in connection with BEPS Action 5.

OECD: governments should make better use of energy taxation to address climate change – 14 February

The OECD has published a report on the use of tax measures to fight against climate change.

The report describes patterns of energy taxation in 42 OECD and G20 countries (representing approximately 80% of global energy use), by fuels and sectors over the 2012-2015 period. It concludes that taxes are effective at cutting harmful emissions from energy use, but governments could make better use of them. Greater reliance on energy taxation is needed to strengthen efforts to tackle the principal source of both greenhouse gas emissions and air pollution.

OECD, UN, IMF, WB: Countries must strengthen tax systems to meet Sustainable Development Goals – 14 February

Major international organisations – including the IMF, OECD, UN and World Bank Group – have called on governments from around the world to strengthen and increase the effectiveness of their tax systems to generate the domestic resources needed to meet the Sustainable Development Goals (SDGs) and promote inclusive economic growth.

According to the OECD, domestic resource mobilisation presents a particular challenge for developing countries, which struggle to raise sufficient revenue to provide basic services, such as road infrastructure, healthcare, and public safety. Research indicates that at least 15% of GDP in revenue is necessary to finance such basic services, but in almost 30 of 75 poorest countries, tax revenues are below this 15% threshold.

On 14-16 February, the Platform for Collaboration on Tax (PCT) is organizing a major international conference to discuss how taxation can contribute to the SDGs.

Other News

PwC and Microsoft publish report on digitalization of tax administrations – February

Tax industry experts from Microsoft and PwC have collaborated to author a new series of white papers that illustrate and discuss how tax administrations are tackling the challenges of digital transformation as a vital step in their countries' economic growth aspirations.

The most recent report looks into how tax administrations can cope with the increasing amount of data available to them through digitalisation. To render tax administrations into "data-intelligent" actors, they will need to enhance their operational excellence and introduce technical transformation components.

The report has been co-authored by the Chair of Accountancy Europe's Tax Policy Group, Eelco Van Der Enden.

ICRICT publishes roadmap to reform global corporate tax system, calls for global CCCTB – 6 February

The International Commission for the Reform of International Corporate Taxation (ICRICT) has published a roadmap with recommendations to reform the global corporate tax system. In the report, ICRICT notably calls for a minimum global corporate tax rate and a global common consolidated corporate tax base with formula apportionment based on sales, assets and labour.

ICRICT is an organisation led by well-known names such as the economists Thomas Piketty and Joseph Stiglitz, the MEP Eva Joly (Greens-EFA/FRA), and the former UN Deputy Secretary General Jose Antonio Ocampo.

Group of multinationals publishes recommendations for responsible tax principles – 9 February

Major global multinationals – including Allianz, BHP, A.P. Moller-Maersk, Natura Cosméticos, Repsol, Safaricom, Royal Dutch Shell Plc, Unilever and Vodafone Group Plc – have endorsed a set of new principles for responsible tax.

The Principles offer a framework that details what good tax practice should look like and sets a new benchmark for businesses to work towards practicing. They cover key areas such as tax management strategy, interactions with authorities, and reporting. They include, amongst others, only using business structures with economic substance, transparent use of tax incentives, disclosure of tax strategies, CBCR and elaborating reasons for having subsidiaries in specific jurisdictions.

MEP Questions & Answers

Commission position on the obligation of law firms, accounting firms and banks to inform internal revenue about clients considering tax optimisation – 22 September 2017

The European Commission has replied to a question asked by the MEP **Michał Marusik (ENF/POL)** with regard to mandatory disclosure rules for intermediaries, including accountants.

In his question, Mr. Marusik asks the Commission how it will ensure that the enablers of tax optimization obey the law. In his reply, **Commissioner Moscovici** describes the main features of its tax intermediaries proposal. In particular, he specifies that the hallmarks in the proposal do not constitute a blacklist, but describe tax arrangements which a tax administration may wish to investigate to determine whether they represent "unacceptable tax avoidance practices". With regard to compliance and enforcement, the Commissioner reminds that member states will have to introduce effective sanctions, and the reputational risks from non-compliance will also contribute to enforcement.

The Paradise Papers – 2 February 2018

The European Commission has replied to a question asked by the MEP **Nikos Androulakis (S&D/GRE)** with regard to the Paradise Papers.

In his question, Mr. Androulakis asks the Commission how it will address tax evasion, and what is the progress in the Council on relevant anti-avoidance legislation. In her reply, **Commissioner Jourova** (justice) provides an overview of the state of implementation of the fourth AML Directive. Moreover, she provides an overview of relevant enacted legislation as well as those currently under discussion – including the tax intermediaries Directive – that should address practices revealed by Paradise Papers. Finally, she states that the upcoming Commission proposal on the taxation of the digital economy will further contribute to "tax fairness".

Double Taxation Conventions – 6 February 2018

The European Commission has replied to a question asked by the MEP **Pascal Arimont (EPP/BEL)** with regard to double taxation conventions (DTC) and, in particular, how Belgium applies them.

In his question, Mr. Arimont refers to Belgian practice whereby a taxpayer must sign a declaration expressing its agreement with the outcome of mutual agreement reached between relevant involved member states. Signing the declaration is conditional to the taxpayer not being subject to double taxation. Mr. Arimont asks the Commission whether the Belgian practice is in line with EU law.

In his reply, **Commissioner Moscovici** maintains that direct taxation remains subject to member states' discretion. There is no EU legislation which determines in which state a taxpayer will be taxed if it has tax links to more than one member state. This question is normally addressed in double taxation agreements concluded by the member states concerned. The application and interpretation of these agreements is not governed by EU law.

Therefore, the Commissioner concludes that the Commission is not competent to assess the conformity of the implementation of the mutual agreement procedure by the Belgian tax authorities.

Tax avoidance by ride-sharing applications – 6 February 2018

The European Commission has replied to a question asked by the MEP **Răzvan Popa (S&D/ROM)** with regard to tax avoidance by ride sharing applications.

In his question, Mr. Popa argues that ride sharing companies such as Uber and Taxify use legal but "highly controversial tactics" to avoid paying taxes in the EU. He asks the Commission what is its opinion on the matter, and whether it will regulate ride-sharing companies.

In his reply, **Commissioner Moscovici** maintains that the Anti-Tax Avoidance Directive (ATAD) goes a long way in addressing such practices. Moreover, the upcoming proposals on the taxation of the digital economy will address the conduct of digitalized ride sharing applications as well. Otherwise, the Commission is not envisaging legislation targeting ride sharing companies specifically but will continue to monitor the situation.