ACCOUNTANCY EUROPE.

Policy update

Tax Policy Update

18 – 29 March

HIGHLIGHTS

- European Parliament adopts TAX3 report, including recommendation on audit firm rotation
- European Parliament votes on public CBCR to bring the file to second reading stage
- Over 100 countries agree at OECD to involve online platforms in VAT/GST collection
- European public opinion sees tax as one of the top priorities ahead of EU elections
- GRI: investor community expresses support for voluntary public CBCR standard

European Commission

Commission publishes study on CCTB impacts – 18 March

The European Commission has published a study that assesses the impact of CCTB on the corporate tax burdens in 28 EU Member States and the relative importance of single elements of the harmonised tax base.

Specifically, it compares the 2016 CCTB draft Directive, the 2011 CCCTB proposal and current national tax law in the EU Member States, and then assesses how the Allowance for Growth and Investment (AGI) and the R&D super deduction impacts on countries' tax burdens.

Compromise agreement found on Fiscalis programme – 21 March

The European Parliament and the Council have reached a compromise agreement on the funding of the so-called Fiscalis Programme. This means that the Commission can now finalise the file and the financing will go ahead.

The compromise package now also includes a recognition of Fiscalis' importance in modernising "reporting and auditing techniques".

As a reminder, the agreement provides for a list of priority measures on which national tax authorities will be expected to work on to combat tax evasion and fraud. It also encourages the implementation of specific measures with the participation of tax administrations in the least-developed non-EU countries. The exact budgetary aspects will be settled during the negotiations on the multiannual financial framework (MFF) for 2021–2027.

European Parliament

European Parliament adopts TAX3 report – 26 March

The European Parliament's TAX3 Committee has adopted its final report and recommendations for rendering the EU more resilient against tax evasion, tax avoidance and money laundering. The report passed with a margin of 505 votes in favour, 63 votes against and 87 abstentions.

Among the many other tax-specific recommendations, the MEPs also adopted a paragraph calling for mandatory seven year audit rotation in order to fight against conflicts of interest. This paragraph, which was initially proposed by the centre-Left S&D Group, passed by a margin of 351 in favour and 296 against. This means that a number of liberal and conservative MEPs voted against their own party lines and aligned with the Left on this issue.

The report also expresses concern about alleged potential conflicts of interest stemming from the same company providing auditing and tax advisory services. It emphasizes the need for transparent indication of what services are provided to which clients, and refers to the PANA Committee report's recommendations in this regard. As a reminder, the PANA recommendations call for a separation of audit and non-audit service providers.

The TAX3 report is legally non-binding. As such, the European Commission or the EU Member States do not have an obligation to take its recommendations into account.

European Parliament votes on public CBCR – 27 March

The European Parliament has voted to conclude the first reading stage of its draft report on public country by country reporting (CBCR).

The vote took place even though there is still no position from the Council. Therefore, it will not lead to any further progress on the file. It begs the question, then, why the European Parliament bothered. There are two possible explanations.

The first reason is that it is a political move supposed to signal that the Parliament has done its duty on the file and that the blame for lack of progress lies solely within the Council. This, however, begs the question why the Parliament would make such a symbolic vote in a time where it is busy adopting and finalising a number of substantive files before to the elections in May.

Thus apparently, the second reason might be procedural. A European Commission source suggested at the end of March that by moving the file to the second reading stage, the public CBCR work can continue as it now stands during the next parliamentary term. Supposedly then, had the file remained at first reading stage, the file would have faced the risk of collapsing in the next parliamentary term.

What was this all about again?

As a reminder, the file is blocked in the Council where a blocking minority of Member States led by Germany keep it on hold. These countries believe that public CBCR should be a tax file and follow the appropriate decision-making procedure, i.e. unanimity of Member States.

This view continues to be supported by the Council's Legal Service. Reportedly, the Legal Service re-confirmed at the end of March that the file should indeed be under tax decision making, rather than the corporate reporting legal basis proposed by the Commission.

Council

Council publishes additional non-cooperative jurisdictions documents – 26 March

The Council has published a number of new documents related to its blacklisting of non-cooperative jurisdictions on tax (or 'tax havens'). The following documents were disclosed:

- A draft assessment of supplementary commitment letters from some jurisdictions regarding the replacement of harmful preferential tax regimes with measures of similar effect
- Reports on several jurisdictions' progress in delivering on their commitments: Hong Kong, Barbados, Anguilla, Crown Dependencies, British Virgin Islands (here and here), Mauritius and Bahrain
- The Forum of Harmful Tax Practices (FHTP) assessment of harmful tax regimes which the European Commission believes the Council can endorse automatically
- Proposed approach to third jurisdictions that have missed their deadline on delivering on their commitments

As a reminder, a few of the 10 jurisdictions that were blacklisted at the last ECOFIN were simply late in their delivery, rather than unwilling to cooperate. For further details on the last ECOFIN, please consult Accountancy Europe's Tax Policy Update from 15 March.

Court of Justice of the EU – Rulings

C-695/17: Mutual assistance for the recovery of claims relating to taxes, duties and other measures – 14 March

Link

C-201/18: Adjustment of VAT deductions and Principle of neutrality – 27 March

Link

C-275/18: VAT exemption for goods to be exported outside of the EU – 28 March

Link

International

List of 29 multinationals affected by French digital tax – 21 March

Deloitte has conducted an impact assessment on the planned French national digital tax. According to the final report, the French tax will impact European firms too.

In total, it appears that 29 European companies will fall under the scope of the digital tax, which applies to companies within a turnover threshold of EUR 25 million in France and EUR 750 billion worldwide.

Moreover, a French tax expert has warned that by rushing the implementation of the new digital tax, France may breach the EU principles of freedom of establishment and free competition.

IMF'S LAGARDE joins calls for big tech firms to pay more tax – 25 March

IMF's **Christine Lagarde** continues to engage in the digital tax debate. She has now called on governments to react to growing concerns that digital companies pay too little tax in most countries where they operate.

According to Ms. Lagarde, IMF analysis shows that multinationals shifting taxable profits to low-tax jurisdictions costs poorest countries hundreds of billions of dollars in lost revenues. Even if the UK and France are trying to address the issue at national level, governments must collaborate to overcome logistical and legal obstacles to redrawing the tax rules, Ms. Lagarde underlines. She concludes by emphasizing that all countries would benefit from addressing the root causes of the existing system's weakness.

OECD

Global Forum on tax transparency reveals compliance ratings for further seven jurisdictions – 18 March

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) has published seven peer review reports assessing compliance with the international standard on transparency and exchange of information on request (EOIR).

The seven jurisdictions reviewed are Hong Kong, Liechtenstein, Luxembourg, the Netherlands, North Macedonia, Spain and the Turks and Caicos Islands. All seven were rated "Largely Compliant" and have in the OECD's view demonstrated their progress on improving access to information, developing broader EOI agreement networks, and monitoring the handling of increasing incoming EOI requests. The reports also issue recommendations to the seven jurisdictions, especially on improving availability of beneficial ownership of all relevant entities and arrangements.

OECD: Most people want higher taxes on rich to support poor – 19 March

The OECD has published a new study that demonstrates significant public favour for increasing taxes on the wealthy in order to support the poorest in societies. The study is based on a survey of 22,000 people from 21 countries.

There were divergences between countries of course. In Greece and Portugal almost 80% of respondents want to see extra taxes on the wealthy. However, even if by smaller margins, even in the US over 50% agreed with additional taxes on the richest segment of the society.

The results also show that 60% of respondents feel that they are not getting a "fair share" back from the taxes that they pay, with access to healthcare being a particular sore point.

New Beneficial Ownership Toolkit will help tax administrations tackle tax evasion more effectively – 20 March

The OECD has launched a new beneficial ownership toolkit that is intended to help governments implement the Global Forum's standards on ensuring that law enforcement officials have access to reliable beneficial ownership information of companies and other legal entities.

The toolkit contains policy considerations that Global Forum members can use in implementing the legal and supervisory frameworks to identify, collect and maintain the necessary beneficial ownership information.

OECD publishes study on taxation and forms of employment – 21 March

The OECD has published a new study on taxation and new forms of employment that for example assesses how tax systems influence choices of employment forms, such as "non-standard work".

The study points out that differences in tax treatment across employment forms may create tax arbitrage opportunities. It therefore investigates the potential for such opportunities for eight countries. It models the labour income taxation, inclusive of social contributions, of standard employees and then of self-employed workers. The aim is to understand whether countries' tax systems treat different employment forms differently, before approaching the broader question of whether differential treatment has merit when evaluated against tax design principles.

Global tax community agrees new measures to enlist online marketplaces in the collection of VAT/GST in e-commerce – 22 March

Delegates from over 100 jurisdictions, including regional and international organisations, have unanimously endorsed new rules that will ensure the collection of additional VAT/GST revenues and is expected to level the playing field between operators in traditional and online markets.

Meeting in Melbourne, Australia on 20-22 March 2019, around 300 participants attending the Global Forum on VAT welcomed measures proposed in a new report by the OECD on The Role of Digital Platforms in the Collection of VAT/GST on Online Sales. The report includes new measures to make e-commerce marketplaces liable for the VAT/GST on sales made by online traders through their platforms. Other measures include data sharing and enhanced co-operation between tax authorities and online marketplaces.

The Netherlands commits to minimum tax as part of the OECD process – 27 March

The Netherlands has joined France and Germany in supporting the introduction of a global minimum tax. It announced its position in a joint statement with Germany, in which both countries commit to engaging on further work on a global " minimum tax standard". They two countries also commit to take into account risks of double taxation and over-excessive administrative burdens.

It thus appears that the Netherlands prefers a global minimum tax to a destination-based solution to the digitalising economy, as pushed by the US and China in particular.

Global tax administrations agree collective actions on tax certainty, co-operation and digital transformation – 28 March

The Forum on Tax Administration (FTA), consisting of the 53 leading global tax administrations, met in Chile on 26-28 March and agreed on an agenda focused on tax certainty, enhanced tax co-operation and the collective challenges of digital transformation.

In particular, the FTA members agreed:

- To ramp up work on tax certainty, including through 17 FTA members participating in the second phase of the pilot on the International Compliance Assurance Programme (ICAP) with more actively considering
- To support policy makers in the development of new standardised reporting requirements to facilitate international exchange of information on those selling goods and services through the sharing and gig economy
- To pursue collective work on the effective use of the vast amount of information on offshore accounts currently being exchanged under the OECD/G20 Common Reporting Standard (CRS)

- Set out in concrete and practical terms a digital vision for Tax Administration 2030 and to help reduce compliance burdens for small and medium sized enterprises through the use of new technologies

For the occasion of the meeting, the OECD also published a new report on joint audits. The report identifies a number of best practices to support international co-operation and in particular the conduct of joint audits, sets out the most advanced forms of audit-related tax co-operation and identifies possible areas of improvement and future work.

Other News

Survey of 1,7 million Europeans shows tax as a high priority for public opinion – 22 March

According to a campaign on European citizens' priorities, taxation is a major area of concern for the public. Indeed, on a list of 10 priorities citizens listed as a 4th one the need to "stop tax breaks for multinational corporations" and to ensure that "taxes should be paid in the country where the profits are generated".

This is based on the input of 1,7 million EU citizens, who participated in the WeEuropeans civic campaign organised by the CIVICO EUROPA association and the MAKE.ORG civic platform. This was allegedly the largest civic consultation ever held in Europe.

European citizens were invited to respond to the survey between 4 February and 15 March. They were able to offer their solutions on concrete steps that can be taken to reinvent Europe and allowed to vote on the proposals of others. The most popular proposals in each country were translated and put to the vote of all Europeans.

The 10 most popular proposals in Europe were subsequently presented in a ceremony at the European Parliament, and the organisers of the survey now call on the political parties of every country, as well as civil society organisations, to take a position on the 10 priorities in the run up to the upcoming European elections.

Social-democratic think-tank publishes report on future of European economy

The foundation for European Progressive Studies (FEPS) – a social-democratic think tank – has published a new report on rewriting the rules of the European economy. The report was prepared by the renown economist **Joseph Stiglitz**, and its recommendations are likely to inform social-democrats' policy proposals in the course of the EU elections campaign.

The report notably suggests the implementation of 'sin taxes' and environmental levies to discourage environmentally damaging practices. This should also include a border tax on any goods coming from a country that has not imposed adequate carbon pricing systems.

Corporate taxation is also high on the report's agenda, as it underlines the need for an agreement on a minimum tax rate and a progressive income tax. These fiscal policies could finance the EU budget and lead to more action coming from the EU, the report underlines.

Finally, FEPS deplores the little progress made on the Financial Transactions Tax (FTT) and calls for a reopening of the negotiations on this file.

On that note, the 10 enhanced cooperators are supposed to discuss FTT again during the informal ECOFIN on 6 April.

Investors express support for new global public CBCR standard – 28 March

The Global Reporting Initiative (GRI) has published the feedback it received on its public consultation on the new standard on taxes and payments to governments. 43% of the 85 submissions received – and 55% of the organizations represented – came from investment companies, who collectively manage assets worth in excess of $2.5 trillion globally.

The next stages of the GRI's work are for the Technical Committee to consider all the responses received through the public comment period before revising the proposed Standard (during Q2 - Q3 2019), followed by the Board approval which is expected Q4 2019.

For further information on the GRI standard and the public consultation, please consult Accountancy Europe's Tax Policy Update from 4 January.

MEP Questions & Answers

GOOGLE MUST HAND OVER BILLIONS LOST IN THE 'BERMUDA TRIANGLE' – 5 March

- Question by MEP **Patrick Le Hyaric (GUE-NGL/France)**
- Reply by **Commissioner Moscovici**
    - Commission claims that the EU does not ask more from third countries on tax than the rules which EU Member States have to apply themselves

Cum-ex tax fraud – 18 March

- Question by MEP **Sophie Montel (NI/France)**
- Reply by **Commissioner Moscovici**
    - Commission confirms it is now focusing on the implementation of the tax intermediaries Directive

Common system of a digital services tax – 20 March

- Question by MEP **Sergio Gutiérrez Prieto (S&D/Spain)**
- Reply by **Commissioner Moscovici**
    - Commission does not believe that a digital tax would be passed on to final consumers or users

NEED TO TAX 'GAFA' (digital companies) – 22 March

- Question by MEP **Sophie Montel (NI/France)**
- Reply by **Commissioner Moscovici**
    - Commission believes its digital services tax (DST) has accelerated progress at OECD-level

Events

- 03/04/2019, ***The impacts of different tax leaks and state aid cases on EU policy***, CESI, Brussels. Source
- 08/05/2019, ***With(out) Holding Tax***, Accountancy Europe, Brussels. Source
- 06/06/2019, ***Creating Tax Certainty in an Uncertain World***, CFE, Brussels. Source