FEE Tax Policy Update

7 – 18 March

Highlights

- **European Parliament publishes draft report on ATAD – 1 March**
- **Council General Agreement on AEOI of CBCR information – 3 March**
- **Publication of the VAT Action Plan postponed – 16 March**
- **European Commission replies to demands made in two European Parliament reports on direct taxation – 16 March**

European Commission

Additional features of the anticipated Commission public CBCR proposal

The European Commission is expected to publish the results of its impact assessment as well as a legislative proposal on **public Country by Country Reporting (CBCR)**. The proposal will probably come in the form of amendments to the **Accounting Directive** (thereby also avoiding the unanimity rule in the Council), and will concern multinationals with an annual turnover equal to or above **€750 million**. The data published would concern relevant country-by-country **accounting information** (e.g. taxes paid, turnover etc.) within the EU, whilst for non-EU jurisdictions only **aggregated data** would be subject to public disclosure. The US has warned that it might interrupt the exchange of CBCR information if the data is disclosed to the public. The Commission is moreover (and as is known) considering a **Fair Tax Payer label** in the context of its public CBCR impact assessment.

FISCALIS report on VAT gap estimations and methodologies – 11 March

The **FISCALIS Tax Gap Project Group (TGPG)** has published its report on **VAT gap estimations**. The report brings together data provided by members of the TGPG, and covers information on the estimations themselves for a number of Member States, as well as the various methodologies used for data gathering, management and interpretation. With regard to VAT gap data collection overall, the report notably concludes that there are no one-size-fits-all methodology for such estimations as depending on specific cases different factors must be considered, for example the purpose of the estimations.

Source:

http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/tgpg_report_en.pdf

Publication of the VAT Action Plan postponed – 16 March

The European Commission has postponed the publication of its long-awaited **VAT Action Plan** by one week. It is not expected for **23 March**. The Commission has stated **other priorities** as the reason, probably relating to the refugee situation. The postponement does not exclude the possibility of further drafting and discussions either.

European Commission replies to demands made in two European Parliament reports on direct taxation – 16 March

The European Parliament (EP) adopted in November-December 2015 **two reports on direct taxation and tax rulings**, prepared by ECON and TAXE Committees. The European Commission has now published a document where it explains **point-by-point** how it will address the **specific demands** expressed in these two reports. On some items, the Commission indicates that it has already taken action, on others it explains why action is not possible (at least for the time being), and finally in some cases the Commission confirms that it will indeed take action. The **highlights** are as follows:

- **Public Country-by-Country Reporting (CBCR):** Commission confirms its anticipated legislative proposal on public CBCR for April. The proposal will possibly be accompanied by provisions on a **Fair Tax Payer label**;
- **Tax advisors:** The Commission confirms that the new **Audit Regulation** will address the issue of providing both audit and tax advisory services, notably with the view of avoiding **conflicts of interest**. The impact of these provisions will be assessed after the Regulation's provisions enter into force. The Commission however **does not intend to propose** additional measures to address the simultaneous provision of audit and tax advice services by companies;
- **CCCTB:** Commission confirms its intention to come up with a **two-staged** proposal by the end of the year (probably November). A **cross-border loss relief** system will be established to compensate for the lack of consolidation. Moreover, the Commission is not planning to propose further harmonisation of **accounting rules** in the CCCTB context, as any harmonisation will only concern the **computation of the tax base**. The Commission will finally consider the inclusion of a new definition for **permanent establishment**;
- **Patent boxes:** as Member States have recently accepted the **modified nexus approach**, the Commission will merely focus on monitoring its implementation. If however Member States fail to implement the approach appropriately, the Commission **may introduce legislation**;
- **Coordination of tax audits:** Commission is currently assessing whether joint audits could help address **transfer pricing** risks and prevent disputes;
- **European Tax ID:** Commission is conducting a "feasibility study" to be completed in **2017**, after which it will assess the need for a legislative proposal as well as its exact scope;
- **Counter-measures against companies using tax havens:** the Commission refers to its recently launched **Anti-Tax Avoidance Package (ATAP)** and **Directive (ATAD)**, which it argues already remove incentives for companies to use tax havens;
- **Transfer pricing:** Commission will monitor the implementation of **G20/OECD guidelines** on transfer pricing in the EU, and will come up with a **legislative proposal** if needed;
- **State aid rules regarding taxation:** the Commission will provide **guidance on the criteria** and application of state aid rules to companies' tax planning practices (no date specified);
- **Tax dispute resolution mechanism:** the Commission will come up with a **proposal by summer 2016**, and its consultation is ongoing;
- **Composition of Commission expert groups:** here the Commission will take a number of actions. It is currently preparing **horizontal rules** for expert groups, and will notably re-confirm its commitment for ensuring **balance** in the groups, to introduce **mandatory public calls for applications**, and improve the management of **conflicts of interest** to experts participating in a personal capacity, including a **definition** of such conflicts.

Source:

https://polcms.secure.europarl.europa.eu/cmsdata/upload/bfea5123-d400-40d2-b529-756438853db4/A8-0349-2015%20-%20A8-0317-2015.pdf

European Parliament

European Parliament publishes draft report on ATAD – 1 March

As a response to the Commission proposal on an **Anti-Tax Avoidance Directive (ATAD)**, the MEP **Hugues Bayet (S&D/BEL)** has drafted a report with the aim of preparing the European Parliament's (EP) position on the dossier. EP however **has no say** in the final content of the ATAD, as this is purely subject to Council unanimity (as it concerns **direct taxation**). However, in accordance with CJEU case law and institutional provisions, EP's opinion is required before the proposal can be finalised.

The actual contents of the draft report introduce several amendments to the Commission proposal. Of **particular interest:**

- **Definitions:** the report puts forward proposed definitions and criteria notably for permanent establishment, transfer pricing, tax havens, minimum economic substance, patent boxes, letterbox companies,
- **Patent boxes:** the report provides a definition of patent boxes and proposes rules to govern such a regime in the EU. It moreover calls on the Commission to propose legislation should Member States fail to properly implement the **modified nexus approach**;
- **Hybrid mismatches:** Commission proposal limits provisions governing hybrid mismatches to situations between EU Member States, but Mr. Bayet proposes for them to apply also in cases involving **third countries**;
- **Tax planning strategies:** Mr. Bayet emphasises the importance of information on tax planning strategies in order to properly address tax optimisation by companies. He highlights the need for "availability of such information, in particular **at the start of the process**";
- **Interest limitation rule:** the report proposes a 10% EBITDA threshold, as opposed to the 30% proposed by the Commission;
- **Letterbox companies:** Member States may not transfer **assets or income** to a letterbox company;
- **Switchover clause:** the report proposes not to exempt a tax payer from tax on foreign income from an entity in a third country or **another EU country** (Commission proposal refers only to third countries), and the non-exemption applies if the **effective tax** on profits in the country of origin is **25%** (lower than 40% of statutory rate in Commission proposal);
- **CFC rules:** the report proposes an effective corporate tax rate of **25%** on a taxpayer's entity as the threshold to determine whether or not the non-distributed income of the entity in question is included in the taxpayer's tax base (40% proposed by the Commission);
- **Implementation:** Member States must inform both the Commission and the European Parliament (European Parliament excluded in Commission proposal) of all details necessary to assess the proper implementation of the ATAD.

In terms of **next steps**, the report is currently scheduled to be voted on in ECON Committee on **23 May**, whilst a Plenary vote is expected for **7 June**. The Dutch Presidency for its part is aiming for a Council agreement on the Directive in **May**.

Source:

http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-578.569&format=PDF&language=EN&secondRef=01

TAXE II Committee hearings with Guernsey, Jersey, Malta, Liechtenstein and Andorra – 14-15 March

The **TAXE II Committee** of the European Parliament (EP) has held two public hearings with representatives from **Guernsey**, **Jersey**, **Monaco**, **Liechtenstein** and **Andorra**. Jersey and Guernsey came under particular fire for their **0% corporate tax rates**, which the representatives justified notably by emphasising their jurisdictions' roles in the flow of capital from elsewhere to the EU financial markets. Both jurisdictions moreover emphasised their close cooperation with European authorities on tax matters. All five jurisdictions moreover refused to consider themselves as **tax havens**, emphasising their adherence to international standards on transparency and administrative cooperation, as well as their **business attractiveness** for non-tax related reasons.

Source:

http://www.europarl.europa.eu/news/en/news-room/20160314IPR19280/Liechtenstein-Monaco-Andorra-Jersey-and-Guernsey-quizzed-in-TAXE-II

TAXE II Committee hearing with multinationals – 15 March

On top of the hearings with the four jurisdictions (see above), the **TAXE II Committee** of the European Parliament (EP) has held a public hearing with representatives from **Google**, **Apple**, **McDonald's** and **IKEA**. The MEPs of the Committee challenged the multinationals for their tax optimisation practices, whilst the multinationals themselves maintained that they comply with relevant laws and regulations and that it is up to policy makers to amend the tax system and to determine what constitutes a fair share of tax paid. More specifically, a number of MEPs challenged the multinationals for their use of complex structures involving jurisdictions such as **Bermuda**, **Ireland** and **the Netherlands**, asked whether the multinationals considered themselves to be paying their fair share of taxes, called for the multinationals to fulfil their "social responsibilities", and urged them to indicate whether or not they would support **public Country by Country Reporting (CBCR)**.

The multinationals themselves emphasised that they want tax systems characterised by clarity, certainty and coordination of rules, whilst IKEA and McDonald's in particular defended their business structures, stating for example that the Bermuda structure does not affect their tax base in the EU, but is rather to defer (not avoid) tax payments to the US. With regard to **public CBCR**, the companies stated their preference for confidentiality but emphasised that they would comply with any legal obligations placed upon them. Google came under specific fire due to its recent tax arrangement with the UK HMRC. Of additional interest, the MEP **Marco Zanni (EFDD/ITA)** asked the multinationals and Apple in particular how much they pay to **tax consultants**. Apple replied by emphasising that their tax advisors are focused on **compliance**, not tax optimisation. Next week TAXE II Committee will hear **banks** notably for their role in providing **tax consulting** to their clients.

MEPs expressed frustration at the multinationals' comments and delivery, both during and after the hearing. The **S&D Group** for example expressed in a press release their shock at what they perceive as the companies avoiding their ethical and legal responsibilities, and denying any wrongdoing.

Sources:

http://www.europarl.europa.eu/news/en/news-room/20160314IPR19295/Google-Apple-IKEA-and-McDonalds-probed-by-Tax-Rulings-II-Committee

http://www.socialistsanddemocrats.eu/newsroom/sd-euro-mps-shocked-not-guilty-tax-plea-apple-google-ikea-and-mcdonalds

ECON Committee votes to extend minimum 15% VAT standard rate until December 2018 – 16 March

The **ECON Committee** of the European Parliament (EP) has voted on the extension of the **minimum 15% VAT standard rate**, as a response to a Commission proposal on the topic published in December 2015 (more details in past FEE Tax Policy Updates). Of particular interest, the MEPs expressed dissatisfaction with the late submission of the proposal by the Commission (December), whereas the current time limit for the 15% minimum rate expired in January 2016. Moreover, the MEPs voted for the extension to last until **31 December 2018**, as opposed to December 2017 proposed by the Commission. EP has no legislative powers to amend the proposal (as it concerns taxation), and neither the Commission or Member States have any obligation to take the MEPs' demands into account.

Source:

http://www.europarl.europa.eu/ep-live/en/committees/video?event=20160316-0900-COMMITTEE-ECON

ECON Committee discusses Commission CBCR proposal, criticises early Council agreement – 16 March

The **ECON Committee** of the European Parliament (EP) has held a first discussion on the Commission proposal to transpose the **OECD BEPS Action 13** with regard to mandatory and automatic exchange of **Country by Country Reporting (CBCR)** information between tax administrations. The MEP **Dariusz Rosati (EPP/POL)** is leading the dossier on the EP's side. He proposes two changes to the Commission proposal: a more active Commission involvement in the data exchange in order to enable it to better monitor compliance with the provisions, and for the Commission to report back to the EP and Member States on the effectiveness of the scheme.

During the discussion, a number of MEPs criticised the fact that the **Council** reached a **political agreement** before EP could submit its opinion (see relevant article in Council-section below). In accordance with EU case law and institutional provisions, taxation remains a Member State competence but the EP's opinion is required before a dossier can become EU law. The **S&D Group** called for using the **threshold** as provided in the **Accounting Directive** (€40 million turnover, 250 employees). A breach between political groups emerged, as S&D, EPP and the Greens called for a stronger Commission role in the exchange of information, feeling that this is a politically important question as it relates to the role of the EU overall in monitoring tax compliance by Member States and companies alike. ECR and ENF Groups (Right-wing) argued by contrast that the Commission role should be strictly limited to what is necessary for ensuring compliance with the provisions. In terms of **next steps**, the ECON Committee will vote on the draft report on **26 April** whilst a Plenary vote is scheduled for **May**.

Source:

http://www.europarl.europa.eu/ep-live/en/committees/video?event=20160316-0900-COMMITTEE-ECON

MEP Questions & Answers

Tax Reforms (Greece) – 4 February

The European Commission has replied to a question asked by the MEP **Kostas Chrysogonos (GUE-NGL/GRE)** with regard to **tax reforms**. In his question, Mr. Chrysogonos criticises the Commission recommending **Greece** to abolish **VAT exemptions** for sectors such as electricity and personal property. He argues that the key problems are tax evasion and weak tax collection, and consequently questions the rationale for increasing rates. He therefore asks the Commission how VAT collection can be improved by imposing new tax burdens, and how the Commission conducted its evaluations for the recommendations. In his reply, **Commissioner Moscovici** emphasises that there is wide-spread **non-compliance** with tax obligations in Greece and consequently the limitation of exemptions may improve the overall tax yield and efficiency, and maintains that the recommendations by the Commission take duly into account the **social implications** of reforms.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-013594&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-013594&language=EN

Car import tax – 10 February

The European Commission has replied to a question asked by the MEP **Roberta Metsola (EPP/MAL)** with regard to the **car import tax**. In her question, Ms. Metsola refers to the small number of EU legal provisions currently dealing with taxation of passenger cars, and asks the Commission with this regard whether consumers in the EU must pay import taxes in two separate Member States "if they decide to relocate to another Member State". In his reply, **Commissioner Moscovici** acknowledges that in case of a permanent move of an EU citizen from one Member State to another there is a risk of **double taxation**. Consequently, Member States notably provide an exemption from **registration tax**. The Commission has attempted to initiate discussion on the issue earlier but this has not picked up steam at the Council or the European Parliament.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-016072&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-016072&language=EN

CCCTB – 10 February

The European Commission has replied to a question asked by the MEP **Ivan Štefanec (EPP/Slovakia)** with regard to the **CCCTB**. In his question, Mr. Štefanec asks the Commission whether it will propose "any **deductible items**" as part of its CCCTB proposal. In his reply, **Commissioner Moscovici** confirms that deductible items are an important part of calculating the tax base, and the Commission is currently reviewing provisions on deductible items from its previous proposal, including a general clause on the deductibility of business expenses, a list of non-deductible items, and rules for the depreciation of fixed assets. The Commission also considers whether the beneficial treatment of R&D expenses should be further developed and whether to address the **debt-equity bias**.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-015764&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-015764&language=EN

National taxation of EU funding – 12 February

The European Commission has replied to a question asked by two **Danish S&D** MEPs **Christel Schaldemose** and **Bendt Bendtsen**, regarding the **tax treatment of EU funds**. In their question, the MEPs ask the Commission whether EU funding received by Danish companies can be taxed at the same rate as **general revenue**, whether this is the case in other Member States as well, and whether taxing these fundings pose a threat to the goals of the funds from which they derive. In her reply, **Commissioner Bulc** (mobility and transport) confirms that other Member States tax EU funding for private projects as well, and that this is not contrary to EU funding rules.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-014910&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-014910&language=EN

Excise duties on goods for consumption in business-to-consumer transactions (Directive 2008/118/EC) – 12 February

The European Commission has replied to a question asked by a **group of S&D MEPs** with regard to **excise duties on goods for consumption in B2C transactions**. In their question, the MEPs ask the Commission whether it considers the system of **tax representatives** to be an obstacle to free circulation of goods, and whether it will consider the possibility of a **one-stop-shop (OSS)** scheme whereby the payment of excise duties would take place in the country where a wine grower or vendor is established. In his reply, **Commissioner Moscovici** confirms that the Commission will in 2016 put forward a **legislative proposal** aiming to reduce the administrative burden on businesses caused by **different VAT regimes**, including the extension of the OSS to **distance selling**. Moreover, the Commission prefers to wait for further experience in VAT in this area before considering whether to extend the OSS to distance selling of excise goods.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-015773&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-015773&language=EN

Refund of VAT to citizens of third countries – 16 February

The European Commission has replied to a question asked by the MEP **Lefteris Christoforou (EPP/CYP)** with regard to **VAT refunds to third country citizens**. In his question, Mr. Christoforou refers to the public budget issues faced by a number of Member States, and with this regard asks the Commission how much VAT is refunded by Member States to third country nationals, for what purpose and whether the continuation of this refunding practice is necessary. In his reply, **Commissioner Moscovici** explains the rationale behind the refund practices in the EU, and confirms that the Commission has no data on amounts refunded to third country nationals. He finally points out that the application of the EU VAT regime is not dependent on the economic situation of Member States.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-015711&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-015711&language=EN

Clamping down on tax avoidance – 17 February

The European Commission has replied to a question asked by the MEP **Šuica Dubravka (EPP/CRO)** with regard to **tax avoidance**. In her question, Ms. Dubravka asks the Commission which companies have received "tax bills" for their tax avoidance practices. In his reply, **Commissioner Moscovici** confirms that the Commission has no information on particular companies receiving such tax bills as this falls under the responsibility of Member States.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-015502&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-015502&language=EN

Tax optimisation by Airbnb in Europe – 17 February

The European Commission has replied to a question asked by **three French ENF MEPs** with regard to **Airbnb's tax practices**. In their question, the MEPs state that Airbnb optimises its taxes in Europe and notably pays "almost no tax" on revenues in **France** despite operating there. They consequently ask the Commission whether it is aware of this practice by the company, whether it will investigate it and what it will do to tackle tax evasion in the EU. In his reply, **Commissioner Moscovici** confirms that the Commission is aware of such tax optimisation practices by multinationals and consequently has fighting tax planning high on its agenda. He moreover lists the several tax initiatives that the Commission is planning for the year 2016.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-016006&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-016006&language=EN

Member State taxation similar in nature to excise duty – 17 February

The European Commission has replied to a question asked by the MEP **Bronis Ropė (EPP/LIT)** with regard to **taxation similar to excise duties**. In his question, Mr. Ropė refers to a Lithuanian tax scheme whereby a new additional turnover tax on owners of private forests has been imposed. He questions notably whether the tax is compatible with the principle of **fair competition**, and consequently asks the Commission whether it thinks that the tax scheme in question is in line with EU provisions, and what is the practice in other Member States regarding the taxation of private forest owners' turnover. In his reply, **Commissioner Moscovici** states that the Commission has received complaints with regard to the tax scheme in question and it will carefully assess its compliance with relevant EU provisions. It moreover has no data on similar schemes in other Member States.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-016020&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-016020&language=EN

Public disclosure of country-by-country reports – 19 February

The European Commission has replied to a question asked by the MEP **Miguel Viegas (GUE-NGL/POR)** with regard to **public Country by Country reporting (CBCR)**. In his question, Mr. Viegas asks for further details on the details and outcome of the **public consultation** that the Commission launched on the economic impact of public CBCR. In his reply, **Commissioner Hill** states that the results of the public consultation as well as a consolidated analysis of these results (appeared in an earlier FEE Tax Policy Update) are already available, and that the Commission will present a legislative initiative on public disclosure during the spring (April) after the impact assessment has been finalised.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2016-000053&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2016-000053&language=EN

A uniform corporate tax is contrary to the EU's free market economy principles – 25 February

The European Commission has replied to a question asked by the MEP **Lefteris Christoforou (EPP/CYP)** with regard to a **uniform corporate tax**. In his question, Mr. Christoforou criticises strongly a common EU corporate tax, and argues that this would run against the very founding free market principles of the EU. He therefore asks the Commission whether it supports a uniform corporate tax for the EU. In his reply, **Commissioner Moscovici** confirms that the Commission will come out with a proposal to establish a common corporate tax base with consolidation as a second step (i.e. **CCCTB**); however, he emphasises that this will not affect Member States' tax rates.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-015692&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-015692&language=EN

Commission task force on state-aid investigations – 29 February

The European Commission has replied to a question asked by the MEP **Fabio de Masi (GUE-NGL/GER)** with regard to the **state aid investigations.** In his question, Mr. de Masi asks the Commission expresses scepticism towards the resources and capacity of the Commission task force responsible for the state aid investigations, and asks the Commission for further details on the resources, experience, composition and capacities of the state aid task force. In her reply, **Commissioner Vestager** confirms that the task force in question was established in 2013 and has employed between 15 and 25 officials. She furthermore confirms that the task force is appropriately resources and staffed to deal with the state aid investigations, but without providing further details.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-014853&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-014853&language=EN

VAT on e-books – 1 March

The European Commission has replied to a question asked by the MEP **Christofer Fjellner (EPP/SWE)** with regard to **VAT on e-books**. In his question, Mr. Fjellner asks the Commission when it will come up with proposals to address VAT in the digital economy, and in particular the different VAT treatment of e-books and printed books. In his reply, **Commissioner Moscovici** confirms that the Commission will present its **VAT Action Plan** (on 23 March) which will amongst other things address VAT rates.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2016-000117&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2016-000117&language=EN

Taxation of works of art in the EU – 1 March

The European Commission has replied to a question asked by the MEPs **María Teresa Giménez Barbat (ALDE/ESP)** and **Juan Carlos Girauta Vidal (S&D/ESP)** with regard to **taxation of art works** in the EU. In their question, the MEPs notably ask the Commission for an overview of trends across the EU with regard to **multiple VAT rates** applicable to independent artists, galleries, dealers and the import and export of art. In his reply, **Commissioner Moscovici** confirms that the **VAT Directive** gives Member States great flexibility on the tax treatment of art work. The reduced VAT rate however applies to sales by artists but not on taxable dealers such as galleries, in which case Member States apply a “special scheme” for the **taxation of the profit margin**.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-016029&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-016029&language=EN

Request to consult Code of Conduct Group documents – 7 March

The Council has replied to a question asked by the MEP **Miguel Viegas (GUE-NGL/POR)** with regard to documents of the **Code of Conduct Group on business taxation**. In his question, Mr. Viegas laments the reluctance of certain Member States to grant access to certain Code of Conduct Group’s documents and asks the Council whether it will intervene. In its reply, the Council simply confirms that It is not for the Council to comment on **individual positions** expressed by Member States.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-015583&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-015583&language=EN

Reducing VAT on fruit and vegetables at EU level and encouraging people to eat a balanced diet – 9 March

The European Commission has replied to a question asked by the MEP **Frédérique Ries (ALDE/BEL)** with regard to **VAT as an incentive for healthy eating**. In his question, Mr. Ries asks the Commission whether it thinks it is possible to introduce a **zero VAT rate for fruits and vegetables** across the EU in order to promote their consumption and healthier lifestyle for EU citizens. In his reply, **Commissioner Andriukaitis** (health and food safety) lists a number of EU programmes and initiatives aiming to promote healthier lifestyles in the EU. He however emphasises that taxation is one tool out of many possible ones to address eating habits, and that Member States already have the option of applying a lower tax rate on fresh fruit and vegetables. He moreover confirms that the Commission's **VAT Action Plan** will give Member States greater flexibility in the application of VAT rates.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2016-000188&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2016-000188&language=EN

Road taxes for motor vehicles – 9 March

The European Commission has replied to a question asked by the MEP **Lefteris Christoforou (EPP/CYP)** with regard to **road taxes on motor vehicles**. In his question, Mr. Christoforou asks the Commission whether it will consider introducing a uniform road tax system, whether it intends to devise a "fairer system" for evaluating road taxes, and whether any studies have been conducted on the topic. In his reply, **Commissioner Moscovici** reminds that there is **little EU legislation** in the area of passenger car taxation (registration and circulation taxes). Therefore, it is up to Member States to lay down national provisions. This can however lead to high administrative burden for citizens and of **potential double taxation** in cases of cross-border transfers of vehicles. The Council and the European Parliament have however been reluctant to discuss the topic. The Commission is however planning further revisions of the **Heavy Goods Vehicles Directive** 1999/62/EC during 2016. The revision would notably aim to ensure a more effective implementation of the user and polluter pays principles. Passenger cars, on the other hand, are not subject to EU legislation on road charging but to general Treaty principles on non-discrimination.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2016-000165&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2016-000165&language=EN

DTA (deferred tax activity) and state aid – 11 March

The European Commission has replied to a question asked by the MEP **Marco Zanni (EFDD/ITA)** with regard to **Deferred Tax Activity (DTA)** and **state aid**. In his question, Mr. Zanni refers to a public hearing held by the European Parliament ECON Committee in November 2015, where **Mario Draghi** was asked what impact it would have on the regulatory capital of Greek banks if DTA (which the Commission is currently looking into) were deemed to constitute state aid. Mr Draghi stated during the occasion that the **ECB** and the **Single Supervisory Mechanism (SSM)** had corresponded on the subject with **DG COMP** with a view to ensuring that the wrong conclusions were not reached during stress tests. He therefore asks the Commission what legal basis did DG COMP have for assuring the ECB and the SSM that DTA would not be deemed to constitute state aid, especially given that the relevant investigations are still ongoing. In his reply, **Commissioner Vestager** states that the Commission has no competence in the creation of DTA's, which is the **accounting result** of the application of national tax regimes not as such involving state resources. However, if a Member State guarantees that it will pay all or part of the stock of DTA under specific circumstances, this could in theory give rise to state aid issues. She confirms that it is the Commission's understanding that the SSM needed to calculate the regulatory capital needs. According to relevant EU law, state-guaranteed DTA do not need to be deducted from regulatory capital, whilst non-state guaranteed DTA have to be deducted, at least partially. For this reason, the SSM was in contact with the Commission with regard to the issue of state-guaranteed DTA.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2015-014897&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-014897&language=EN

FTT – 14 March

The European Commission has replied to a question asked by the MEP **Auke Zijlstra (ENF/NLD)** with regard to the **Financial Transaction Tax (FTT)**. In his question, Mr. Zijlstra asks the Commission whether it is possible that the FTT currently negotiated by 10 Member States could lead to share trading on stock exchanges being transferred from France and Germany to the UK, to what degree the FTT will cause deterioration of the pension funds' financial conditions, and whether it is possible that financial institutions will pass on the costs of FTT on to customers. In his reply, **Commissioner Moscovici** confirms that the tax should be paid on the basis of the residence of the involved parties, not on the place of transaction. This would prevent the incentive to relocate a transaction to a stock exchange located outside of the FTT's reach. Furthermore, low and broad taxes should further diminish any risks of relocation. Furthermore, it seems that most assets in which pension funds invest would probably fall out of the tax's scope. Finally, there might be cases of costs being transferred on consumers but these should not be significant as the proposed tax rates themselves are low.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2016-000782&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2016-000782&language=EN

Corporate taxation – 14 March

The European Commission has replied to a question asked by the MEP **Eva Paunova (EPP/BUL)** with regard to **corporate taxation**. In her question, Ms. Paunova is asking the Commission for further details on the anticipated **CCCTB** proposal, and in particular with regard to fears that this might lead to **harmonised tax rates**. In his reply, **Commissioner Moscovici** reminds that the Commission has consistently insisted that the proposal would not lead to tax rate harmonisation. He thus confirms that the CCCTB proposal will not involve tax rates "in any way", and that updates will be limited to **computation of the tax base**. Finally, the scheme will be **mandatory** and follow a two-staged approach, the revised rules will also address the **debt-equity bias** and will further promote **R&D**.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2016-000755&format=XML&language=EN

Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2016-000755&language=EN

Council

Council General Agreement on AEOI of CBCR information – 3 March

EU Finance Ministers (**ECOFIN Council**) have reached an agreement on **automatic exchange of information (AEOI)** of **Country by Country Reporting (CBCR)** elements between Member States' tax administrations. The agreement was reached merely 40 days after the European Commission issued the proposal (28 January), an unusually fast pace that was possible only due to the fact that a number of Member States had already agreed and committed themselves to the CBCR provisions in the context of the **OECD BEPS project (Action 13)**. The dossier can be finalised once the **UK Parliament** has given its final endorsement, and the **European Parliament (EP)** has submitted its **opinion**. The EP cannot however influence the actual contents of the agreement as taxation remains subject to Council unanimity and national sovereignty. EP recently held its first discussion on the CBCR proposal (see the European Parliament-section for the relevant article).

With regard to the specific **features** of the agreement, the **role of the Commission** and its access to the CBCR information will be limited to what is needed for ensuring monitoring compliance with the AEOI Directive. The Directive will transpose the OECD BEPS Action 13 into a legally binding EU instrument, covering multinationals with a total consolidated group revenue of at least **€750 million**. Multinationals will have to file the **first CBC reports** to the tax administrations of the Member State where they are tax residents for the fiscal year **2016**. In case a group's parent company is not an EU tax resident and does not file a report, it will have to do so through possible **EU subsidiaries**. This "**secondary reporting**" will be mandatory as from the **2017** fiscal year, but optional in 2016 (a concession given to Germany in exchange for it support for the measure).

Source:

http://data.consilium.europa.eu/doc/document/ST-6672-2016-INIT/en/pdf

http://www.consilium.europa.eu/en/press/press-releases/2016/03/08-corporate-tax-avoidance/

Council conclusions on the future of the Code of Conduct Group – 4 March

Member States' Finance Ministers (**ECOFIN Council**) have agreed on the principles and direction for reforming the **Code of Conduct Group on Business Taxation** (the Group). The Group has been criticised in the past for its lack of **transparency** and sluggish functioning, most recently by MEPs who have notably been demanding for access to the Group's non-disclosed documents, including minutes that would reveal Member States' positions. Consequently, the Council's conclusions for reforming the Group were highly anticipated. The conclusions however are likely to leave many stakeholders disappointed. The wording is vague, and notably makes no reference to the Group's intention to keep the **European Parliament** on the loop on a regular basis, with Member States consistently insisting that taxation is first and foremost a question of national sovereignty.

The conclusions entail a number of **provisions of interest**. These include the possibility of a "subgroup" to focus in particular on the **external strategy** for effective taxation (including a possible future EU list of non-cooperative jurisdictions); the necessity to increase and improve the Group's **transparency**, whilst bearing in mind the need for "result-oriented cooperation" with **confidentiality**; efforts to "explore initiatives" on how to better **inform the public** on the Group's work – the Group is to report back on this to the ECOFIN by June 2017; facilitate **access to information** on ongoing and past work, including access to documents related to "general guidance" and final decisions; the need to review the governance, transparency and working methods of the Group – ECOFIN to receive a report on this by December 2017; and finally, extend the **Group's mandate** and criteria by the end of the Dutch Presidency (i.e. by June).

Source:

http://data.consilium.europa.eu/doc/document/ST-6674-2016-INIT/en/pdf

Member States progress on Anti-Tax Avoidance Directive – 15 March

Member States in the Council have achieved good progress on the **Anti-Tax Avoidance Directive (ATAD)**. Although Germany and a number of other Member States had called earlier for splitting the proposals into two parts (BEPS and non-BEPS provisions), they now appear committed to try advancing the dossier as a whole. Speedy progress is anticipated at least for **exit taxation**, the **interest limitation rule** as well as the **General Anti-Abuse Rule (GAAR)**, whilst the future of the **switchover clause** seems more threatened. On **hybrid mismatches** a number of Member States are calling for reducing the Commission proposal's differences to OECD BEPS provisions. The Dutch Presidency has been calling for quick progress on ATAD, and is still aiming for a political agreement by **May**.

Estonia officially announces its withdrawal from the FTT project – 16 March

Estonia has formally announced in a letter to the Council of the EU its withdrawal from **enhanced cooperation** for the establishment of a **Financial Transaction Tax (FTT)** in the EU. Already in December 2015 Estonia indicated that it is unable to continue work with the other 10 Member States on the dossier, bringing into question the work conducted by 11 countries to find common ground and establish a FTT covering their respective jurisdictions only. Discussions on the dossier are still ongoing after three years of work, and differences between the participating countries remain. Further details on ways forward for the remaining 10 Member States is expected by June.

Council conclusions on VAT, implications for sanitary products in the UK – 17 March

The Heads of State of the EU (**European Council**) have reached conclusions with regard to **VAT reform** in the EU. In the conclusions, Member States welcome the European Commission's intention to increase flexibility on **reduced VAT rates** for Member States. The conclusion moreover states that this would enable zero rates for sanitary products, an issue that has been a hot topic in the UK where pro-Brexit campaigners have used EU rules with regard to reduced VAT rates on certain sanitary products as a case example of the EU intervening in the British tax system. As a reminder, the Commission is anticipated to publish its **VAT Action Plan** also addressing VAT rates on **23 March**.

Source:

http://dsms.consilium.europa.eu/952/Actions/Newsletter.aspx?messageid=4210&customerid=34783&password=enc_3156316533506331357761 31_enc

Court of Justice of the EU

Advocate General Eleanor Sharpston: VAT on legal aid does not constitute a breach in the right of access to justice – 10 March

Advocate General **Eleanor Sharpston** of the **Court of Justice of the EU (CJEU)** has argued that EU Member States may apply a **VAT** on **lawyers' services** even if this leads to an increase in service costs. The case originates from Belgium, where a standard 21% VAT rate on lawyers' services is applicable but with a zero rate on services provided to lower income individuals. A main question to be answered by the court was whether or not the 21% VAT rate and ensuing rise in costs of legal service provision constitutes an infringement to the right to legal aid. Ms. Sharpston's assessment pointed to the negative.

Source:

http://curia.europa.eu/juris/document/document.jsf?text=&docid=174925&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=221520

First Chamber provides ruling on VAT exemptions applicable in the insurance sector – 17 March

The First Chamber of the **Court of Justice of the EU (CJEU)** has provided a ruling regarding the application of VAT exemptions on the insurance sector. The Chamber has decided that **claims settlement services** are not subject to **VAT exemption** for insurance services in the EU. The ruling involved a case handling company **Aspiro** based in Warsaw, **Poland**. The Chamber notably argued that Aspiro itself does not provide services related to insurances and as such its case settlement services cannot be subject to a VAT exemption otherwise applicable to insurance services.

Source:

http://curia.europa.eu/juris/document/document.jsf?text=&docid=175157&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1

International

"Indian Budget Aims For Tax Certainty, Simplicity" – 4 March

According to Tax News, **India's** budget for 2016 will introduce a number of tax provisions aiming for **simplification and greater certainty** for businesses. For example, according to new provisions long-term capital gains from transfer of a company's shares will be subject to a 10% tax rate. Moreover, the **Minimum Alternate Tax (MAT)** will not apply on foreign companies that have no permanent establishment of a place of business in India, with a retrospective effect from April 2001 onwards. Further details are in the article.

Source:

http://www.tax-news.com/news/Indian_Budget_Aims_For_Tax_Certainty_Simplicity____70620.html

"New Zealand Continuing Tax Reform Push" – 7 March

According to Tax News, **New Zealand** intends to carry on with its **tax reforms**, including improvements in tax administration and minimising compliance costs for businesses. Moreover, efforts and focus will also be directed towards transposing the **OECD BEPS recommendations** into national legislation. At the same time however New Zealand will maintain and further improve its **broad-based low-rate (BBLR) tax system**.

Source:

http://www.tax-news.com/news/New_Zealand_Continuing_Tax_Reform_Push____70631.html

"IMF Urges India To Advance GST" – 7 March

According to Tax News, the **IMF** has asked **India** to prioritise the implementation of its **goods and services tax (GST)** with the purpose of raising revenue notably to cover social spending. IMF argues that the GST would improve the efficiency of intra-Indian movement of goods and services, and boost GDP. Moreover, IMF recommends for the GST scheme to include as few exemptions as possible, as well as a moderate single rate.

Source:

http://www.tax-news.com/news/IMF_Urges_India_To_Advance_GST____70633.html

“IMF Urges Belgium To Reform Wealth Tax” – 8 March

According to Tax News, the **IMF** has urged **Belgium** to introduce certain changes to its **wealth tax** system. The recommended changes include the introduction of a broader **capital gains tax**, a **real estate tax** shift from transactions to recurring charges, as well as a limit on the favourable tax treatment of **rent income**. At the same time, the IMF praised Belgium for its attempts to reduce the **tax burden on labour**.

Source:

http://www.tax-news.com/news/IMF_Urges_Belgium_To_Reform_Wealth_Tax____70649.html

“Pacific Alliance To Remove Intra-Bloc Trade Taxes” – 8 March

According to Tax News, Member States of the **Pacific Alliance** intend to remove **tariffs** from 92% of **intra-bloc trade** starting May 2016. The Pacific Alliance is an economic bloc of Latin American countries including Chile, Colombia, Mexico and Peru. Chile was the last of these countries to decide on the elimination of the tariffs. The reminding tariffs will be gradually reduced.

Source:

http://www.tax-news.com/news/Pacific_Alliance_To_Remove_IntraBloc_Trade_Taxes____70645.html

“UBS and Deutsche Bank lose bonus tax challenge” – 9 March

According to the Guardian, **UBS** and **Deutsche Bank** may be required to pay tens of millions of points to **UK’s HMRC** following a supreme court ruling according to which **bonus schemes** run by the banks are not subject to **tax exemptions**. The ruling covers bonuses paid from 2004 onwards, and maintains that the purpose of the bonus schemes was to avoid **income tax** on bankers’ bonuses.

Source:

http://www.theguardian.com/business/2016/mar/09/ubs-deutsche-bank-lose-bonus-tax-challenge

“Norway Introduces VAT Zero Rate For Electronic News” – 10 March

According to Tax News, **Norway** introduced earlier this month a **zero VAT rate** for electronic news services. The introduction of the zero rate follows an approval by **EFTA**, which found the scheme to be in line with the organisation’s relevant provisions. The purpose of the measure is to ensure that e-news are subject to a similar VAT treatment than conventional printed newspapers.

Source:

http://www.tax-news.com/news/Norway_Introduces_VAT_Zero_Rate_For_Electronic_News____70674.html

“French palm oil tax ‘unfair’ and ‘destructive’, producers say” – 11 March

According to Euractiv, notably **Indonesia** and **Malaysia** have criticised French plans to introduce a so-called **palm oil tax**. Indeed, **France** is currently planning to increase the tax rate on palm oil intended for food consumption. The producing countries are concerned that the tax might pose a threat to their palm oil industries.

Source:

http://www.euractiv.com/section/agriculture-food/news/french-palm-oil-tax-unfair-and-destructive-producers-say/

“China Drafts Rules for Tobin Tax on Currency Transactions” – 15 March

According to Bloomberg, **China** is taking further steps towards the introduction of a **Tobin tax** for **currency transactions**. More specifically, the Chinese **Central Bank** has prepared rules for a tax on foreign exchange transactions, notably with the purpose of toning down **currency speculation**. The move comes in a context where the Chinese Yuan has been subject to volatility due to market reactions sparked by the currency’s devaluation in August 2015.

Source:

http://www.bloomberg.com/news/articles/2016-03-15/china-said-to-draft-rules-for-tobin-tax-on-currency-transactions

George Osborne unveils UK budget, changes to tax system – 16 March

As reported by a number of media and other organisations, **George Osborne** has announced his budgetary plans for the **UK**. The plans introduce a number of changes to the British **tax system** which resonate in part with EU-level discussions on the same topics. Of particular interest, the UK will introduce a **tax on sugary drinks**, reduce the **corporate tax rate** to 17% (11% lower than when Mr. Osborne first came into office in 2010), cut the **capital gains tax** from 28% to 20%, to raise an additional £12 billion by 2020 by fighting **tax avoidance and evasion**, and to tackle **VAT fraud** in the digital economy. Of additional particular interest, the tax relief on **debt interest payments** will be capped at 30% (in line with OECD BEPS and the European Commission’s proposals). As reported notably by ICAEW’S **Economia**, members of the business community have already expressed concerns about the fast pace at which Mr. Osborne intends to introduce the 30% interest deductibility cap, aiming to have the cap in place by **April 2017**. Economia has moreover published an extensive article looking into the potential effects of the tax reforms on **tax avoidance**.

Sources:

http://www.bbc.com/news/uk-politics-35819797

http://www.theguardian.com/business/2016/mar/16/osborne-targets-overseas-sellers-on-amazon-and-ebay-in-vat-clampdown

http://economia.icaew.com/news/march-2016/osbornes-sweet-and-sour-budget?utm_source=economianews&utm_medium=articles&utm_content=headlines&utm_campaign=march2016

http://economia.icaew.com/opinion/march-2016/what-the-budget-means-for-tax-avoidance?utm_source=economianews&utm_medium=articles&utm_content=headlines&utm_campaign=march18

“Kuwait To Levy 10pc Corporate Income Tax” – 17 March

According to Tax News, **Kuwait** is planning to introduce a 10% **tax on corporate profits**. The purpose of the measure is to help plugging the country’s budget deficit currently amounting to roughly €35 billion. In parallel and as indicated in a previous FEE Tax Policy Update, Member States of the **Gulf Cooperation Council (GCC)** have agreed to establish a **minimum VAT rate** for the region. **United Arab Emirates** has already confirmed its intention to introduce its VAT regime starting 2018, with the rest of the GCC Members expected to make similar announcements soon. The rate would be established at 5%.

Source:

http://www.tax-news.com/news/Kuwait_To_Levy_10pc_Corporate_Income_Tax____70727.html

OECD

Developed and developing countries gather at OECD to deepen their engagement to implement BEPS package – 4 March

The **OECD** has hosted two events for the **international tax community**. These were the **Task Force on Tax and Development** and the **Global Forum on Transfer Pricing**, which gathered a total of over 230 attendees from 84 jurisdictions as well as 11 international and regional organisations. The Task Force focused in particular on the recently announced more inclusive BEPS implementation framework (see FEE Tax Policy Update 4 March), and had the purpose of ensuring that the needs and concerns of **developing countries** are duly taken into account. The Global Forum by contrast attempted to harness greater commitments from all participating countries and jurisdictions to implement the BEPS package and to join the new inclusive framework. Moreover, the practical impacts of the revisions to the **Transfer Pricing Guidelines** and the challenges of implementing the transfer pricing measures resulting from the BEPS Project were discussed.

Source:

http://www.oecd.org/tax/developed-and-developing-countries-gather-at-oecd-to-deepen-their-engagement-to-implement-beps-package.htm

Opportunities and limitations of public equity markets for SMEs – 10 March

The **OECD** has published a new report titled *Opportunities and limitations of public equity markets for SMEs*. The lengthy report complements earlier OECD work on **market-based finance for SMEs**, and notably identified a number of obstacles to a wider use of **public equities** for SMEs, including admission costs and listing requirements, lack of liquidity, educational gaps as well as limited ecosystems. Of particular interest, the report maintains that the **debt-equity bias** is one of these hindering factors, and provides a number of recommendations for governments to address the issue as well as a call for further research into the issue.

Source:

http://www.keepeek.com/Digital-Asset-Management/oecd/finance-and-investment/opportunities-and-limitations-of-public-equity-markets-for-smes_fmt-2015-5jrs051fvnjk#page1

New Global Forum peer reviews highlight ever-increasing compliance with tax transparency standards – 14 March

The **OECD Global Forum** on Transparency and Exchange of Information for Tax Purposes has published the results of its assessment of **ten jurisdictions** with regard to their compliance with **tax transparency standards**. Progress was achieved by Croatia, Tunisia, Botswana, El Salvador, Georgia, Kenya, Mauritania, Nigeria, Niue and Saudi Arabia. The Global Forum has finalised **225 peer reviews** and provided compliance assessments to a total of 94 jurisdictions. The first round of reviews for all member jurisdictions is scheduled to be completed by the end of 2016.

Source:

http://www.oecd.org/tax/new-global-forum-peer-reviews-highlight-ever-increasing-compliance-with-tax-transparency-standards.htm

Latin America and the Caribbean: Tax revenues rise slightly but remain well below OECD levels – 16 March

According to the OECD, the **tax revenues** in **Latin American and Caribbean (LAC) countries** increased in 2014. According to the data, the average **tax-to-GDP** ratio for the region increased from 21,5% in 2013 to 21,7% in 2014. Despite the rise however, the tax-GDP ratio for the region remains well below the **OECD average**, which was 34,4% in 2014. The data comes from a report jointly prepared by the OECD, the Inter-American Centre for Tax Administrations (CIAT), the Inter-American

Development Bank (IDB) as well as the Economic Commission for Latin American and the Caribbean (ECLAC).

Source:

http://www.oecd.org/tax/latin-america-and-the-caribbean-tax-revenues-rise-slightly-but-remain-well-below-oecd-levels.htm

Other News

"Facebook faces profits hit after tax shake-up" – 4 March

According to the Financial Times (article only available to subscribers), **Facebook** is likely to pay millions of pounds worth more of corporate taxes following a change in its **tax structure** in the **UK**. The re-structuring is a preparatory move by the company to adjust to changes in the global tax landscape caused by strengthening international efforts to tackle tax optimisation by multinationals. Specifically, Facebook will begin starting April to book large **advertising sales** made by its British team in the UK. These revenues had previously been routed through **Ireland**, where it paid less corporate tax.

Source:

http://www.ft.com/intl/cms/s/0/7115354a-e1ef-11e5-96b7-9f778349aba2.html#axzz43AApHBoT

"Digital Tax Rules Across the Globe" – 7 March

As a continuation to its earlier list of jurisdictions across the globe planning **digital tax reforms** (see FEE Tax Policy Update from 4 March), **Taxamo** has published a list of certain jurisdictions where various digital tax regimes are already in place. These include the EU, Japan, Norway and South-Africa, each of which have made adjustments to their national tax systems in past years in order to accommodate **digital services and goods**, as well as cross-border **e-commerce**. There is consequently a clear global trend towards adapting to economic changes and realities generated by technological advancement and digitalisation of economies.

Source:

https://www.taxamo.com/digital-tax-rules-in-operation/?utm_source=Taxamo+Blog+Subscription&utm_campaign=20e0ecf894-BLOG_POST_25&utm_medium=email&utm_term=0_cf2402efdc-20e0ecf894-305315961&mc_cid=20e0ecf894&mc_eid=26a24dfe06

Closer alignment of income tax and national insurance contributions – 7 March

The UK **Office of Tax Simplification (OTS)** has published a report and recommendations calling for greater alignment between **income tax** and **National Insurance Contributions (NCI)**. The report makes a number of recommendations, including moving to an annual, cumulative and aggregate basis for NICs, aligning self-employed NICs more closely with the employees' NICs and benefits, and aligning the definition of **earnings and expenses** between income taxes and NICs.

Source:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/505610/PU1909_cover___prelims_web.pdf

“Tax code complexity could damage economy, warns think tank” – 7 March

According to AccountancyAge, the **Centre for Policy Studies (CPS)** has criticised the length and complexity of the **UK tax code**. CPS argues in its report on the topic that the tax code in its current form is generating **uncertainties** for companies, whilst causing **additional costs** in the form of tax experts and accountants to assist in compliance and interpretation of relevant provisions.

Source:

http://www.accountancyage.com/aa/news/2449887/tax-code-complexity-could-damage-economy-warns-think-tank?utm_medium=email&utm_campaign=AA.Tax.Cat.14DU.A.M0800&utm_source=AA.DCM.Scheduled_Updates

Business Europe criticises Commission Anti-Tax Avoidance Package – 7 March

Business Europe (BE) has published its position paper on the **Anti-Tax Avoidance Package (ATAP)** released by the European Commission on 28 January. The position paper welcomes the Commission’s efforts to ensure a coherent transposition of the OECD BEPS recommendations throughout the EU, but expresses strong criticism against provisions that differ or go further from these recommendations. BE consequently calls on the Commission to **withdraw** its proposals, and for Member States to transpose the OECD BEPS recommendations only. Particularly strong critique is raised at the **switchover clause** where BE feels that the proposed provisions are not in line of the principle of taxing profits and value where they are generated. With regard to the **interest deduction** provisions, BE argues that these will ultimately generate unfair advantages to larger countries over smaller ones in attracting business headquarters. The organisation moreover maintains that the **exit taxation** provisions may constitute a breach to the free movement of capital, whilst **CFC rules** would be better addressed at Member State level.

Source:

https://www.businesseurope.eu/sites/buseur/files/media/position_papers/ecofin/2016-03-07_anti-tax_avoidance_package.pdf

“EU tax transparency directive ‘insufficient first step’, activists say” – 8 March

As reported notably by Euractiv, a number of civil society organisations have criticised the Council agreement on **Country by Country Reporting (CBCR)** reached between Member States in early-March (see article in Council-section above). The organisations lament in particular that the deal falls short of calls for **public CBCR**, which is true given the fact that the Commission only proposed the implementation of the OECD BEPS CBCR provisions as proposed by the BEPS recommendations. The Commission is however separately going to publish a proposal on public disclosure later in April. The **S&D Group** (centre-Left) of the European Parliament has also expressed its disappointment on the agreement in the Council. S&D is in particular about the fact that the Council reached a political agreement before the Parliament could submit its opinion (in any case this opinion is needed before the Commission proposal can become EU law). Other areas of disappointment concern the **scope** (only multinationals with a turnover equal or above €750 million), as well as exceptions related to **commercial secrecy** or **administrative difficulties** encountered by tax administrations.

Source:

http://www.euractiv.com/section/euro-finance/news/eu-tax-transparency-directive-insufficient-first-step-activists-say/

http://www.socialistsanddemocrats.eu/newsroom/tax-transparency-eu-member-states-lack-ambition-yet-again

"CIT Reform, BEPS Top Concerns For US Tax Directors" – 11 March

According to Tax News, a survey of **US tax directors** has indicated that their main desire for **tax reform** is a reduction in corporate tax rates, a shift to a territorial tax system, and a more simple tax framework. A great number of the directors have moreover listed "international tax planning", including **BEPS**, as the main tax issue for 2016. A great majority is also already preparing for the implementation of the BEPS recommendations, including **Action 13**, ahead of their transposition into laws by committed countries.

Source:

http://www.tax-news.com/news/CIT_Reform_BEPS_Top_Concerns_For_US_Tax_Directors____70677.html

Oxfam publishes report on tax havens – 14 March

Oxfam has published a report calling on the **UK Government** to take decisive action against **tax havens**. The report makes particular reference to the "**Big 4 audit firms**" which it holds partially responsible for the use of "tax havens" by multinationals, and blames them for "selling **unlawful tax avoidance schemes**". Indeed, the report highlights the role and influence of the Big 4 in the global tax policy landscape and therefore calls on these firms to publish in full their **Country by Country Reporting (CBCR)** information whilst also calling on their clients to do so; to only assists clients on **tax returns** that align both with the letter as well as the **intent of the law**; and refrain from lobbying on tax issues in cases that can be seen as going against the **public interest**. Other points in the report call on the UK to expand its public register of **beneficial ownership** to also cover trusts and "other legal entities", and to better take into account the impacts of tax optimisation on **developing countries**.

Source:

http://oxfamilibrary.openrepository.com/oxfam/bitstream/10546/601121/1/bp-ending-era-tax-havens-uk-140316-en.pdf

Eurodad publishes a public CBCR checklist and 10 reasons for public CBCR – 10/14 March

The civil society organisation **Eurodad** has published a **checklist** to verify whether or not a template for **public Country by Country Reporting (CBCR)** is fit for purpose and sufficient or not. Eurodad argues that the checklist is an appropriate tool for verifying that the template enables the public to be aware of "tax dodging" activities by companies.

Eurodad moreover published an article which provides **10 reasons** in favour of **public CBCR**. Eurodad has been vocal in its call for public disclosure, which it considers to be a necessary step in order to achieve meaningful results in the fight against tax optimisation by companies, and large multinationals in particular. The arguments provided by Eurodad are heard in various debates on the topic currently held at the EU-level, and thus provide a good overview of the main concerns raised by civil society actors.

Source:

http://eurodad.org/files/pdf/1546554-public-cbcr_1457622756.pdf

http://eurodad.org/Entries/view/1546559

"KPMG: are they really masters of the universe?" – 15 March

The Tax Justice Network has published a blog post by **Dr. Atul Shah** (Suffolk Business School) in which he argues that the strong position of the **Big 4** in the provision of business consulting services is generating concerns amongst academics in fields concerned with "ethics, independence and truth". In particular, concerns apparently emerge from a confusion as to whether these firms function as regulators of business or business advisors helping corporate clients avoid their regulatory obligations. Dr. Shah provides a list of specific points with regard to **KPMG UK’s** recent annual report which he argues falls short of the principles of transparency and objectivity.

Source:

http://www.taxjustice.net/2016/03/15/kpmg-are-they-really-masters-of-the-universe/

“Charities including Oxfam expose French banks’ profit shifting” – 16 March

According to Public Finance International, a new study by **Oxfam** and **two French charities** sheds light on **profit shifting to tax havens** conducted by five large French banks: BNP Paribas, BPCE, Société Générale, Crédit Agricole and Crédit Mutuel – CIC. The study’s results are based on an analysis of **public Country by Country Reporting (CBCR)** data. The study is consequently likely to strengthen the voices of those who argue that public CBCR is an appropriate tool for addressing tax optimisation practices by multinationals. On a separate note, TAXE II Committee of the European Parliament will hold a public hearing with bank representatives on **22 March**, where notably the findings of this report are possibly going to be brought up.

Source:

http://www.publicfinanceinternational.org/news/2016/03/charities-including-oxfam-expose-french-banks-profit-shifting?utm_source=Adestra&utm_medium=email&utm_term=

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- 05/04/2016 12:00-14:15, ***Implementing BEPS – making tax reform work in Europe***, ICAEW, Brussels. **Source:** http://www.icaew.com/en/about-icaew/where-we-are/europe/international-tax-system
- 12/04/2016 12:30-14:00, ***Taxation Policy with Stephen Quest, Director-General, DG TAXUD***, BritCham, Brussels. **Source:** http://britishchamber.be/event/taxation-policy-stephen-quest-director-general-dg-taxud
- 28-29/04/2016, ***Corruption and the role of tax havens***, Tax Justice Network et al., London. **Source:** http://www.taxjustice.net/wp-content/uploads/2016/03/City-2016-core-programme-March-28-29-APR-2016.pdf
- 18/05/2016, ***Reforming regulation of professions: results of mutual evaluation and way forward***, European Commission, Brussels. **Source:** http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8592&lang=en&tpa_id=0&title=Conference-on-reforming-the-regulation-of-professions-
- 09/2016, ***Bruegel Annual Meetings***, Bruegel, Brussels. **Source:** http://bruegel.org/events/bruegels-annual-meetings-2016/