ACCOUNTANCY EUROPE.

Policy update

Tax Policy Update

18 February – 1 March

HIGHLIGHTS

- Moscovici hints at enhanced cooperation on digital tax but Bruno Le Maire appears to throw in the towel
- TAX3 Committee votes on its non-binding recommendations, calls for mandatory audit rotation
- OECD extends deadline of consultation on taxation of the digital economy

European Commission

European Commission publishes tax work plan for 2019 – 12 February

The European Commission's DG TAXUD has published its work plan for taxation for 2019. It outlines, among other things, the tax and VAT files that the Commission intends to prioritise and progress on in the course of this year.

The work consists of helping push through the Council already proposed initiatives, improving cooperation and providing support to Member States and relevant national authorities, and facilitating the national transposition of legislation that has already been adopted. For example, according to the document DG TAXUD will work on the "necessary implementing measures" of the tax intermediaries Directive (DAC 6). It will also continue its evaluation of the EU's Energy Tax Directive.

Commissioner Moscovici hints for the first time possibility of enhanced cooperation on digital tax – 21 February

Speaking at a conference on taxation organised by the think-tank Bruegel, Commissioner Moscovici hinted that he would consider using enhanced cooperation if Member States fail to agree on the digital services tax (DST) at the upcoming 12 March ECOFIN meeting.

The event was about the prospect of introducing qualified majority voting (QMV) into EU's tax decision-making, instead of the current unanimity rule that allows even just one Member State to block a tax proposal. The Commissioner expressed frustration that only three Member States out of 28 (Sweden, Denmark and Ireland) block the DST whilst all others are willing to move ahead.

Political agreement reached on Fiscalis programme – 21 February

EU Member States and the European Parliament have reached an agreement on the funding and priorities of the Fiscalis programme for 2021-2027. The Commission may now finalise the file and introduce it into EU law.

A number of changes were introduced to the programme. For example, unlike in the past it now includes clear objectives and priorities. It also makes explicit references to combating tax evasion and avoidance. The agreement also proposes to encourage the implementation of specific actions with the participation of tax authorities in the least developed third countries.

The budgeting of the programme for 2021-2027 will still have to be resolved separately in the course of future negotiations on the EU's multiannual financial framework. Whilst the European Commission proposed a funding of EUR 270 million for Fiscalis, the European Parliament requested for EUR 339 million instead – not to the liking of many Member States.

Commission has launched an EU-wide multilingual campaign urging SMEs to prepare for Brexit – 22 February

The European Commission has launched an EU-wide multilingual campaign urging SMEs to prepare for Brexit – including VAT and tax implications.

The Communication campaign is taking place through the regular Commission-owned channels, but also relies on national and local multipliers to reach the target audience in their national language.

The material consists, notably, of the following:

- Dedicated webpage in 24 languages on TAXUD Europa
- "Trader checklist" in 24 languages
- "Brexit Customs Guide for Businesses" in 24 languages
- Press release in 24 languages and lines to take for the press
- Announcement in the midday Press-Briefing
- News-announcement on the website

European Parliament

TAX3 hearing with Commissioner Vestager and Spanish State secretary for Finance – 19 February

The TAX3 Committee has held hearings with **Commissioner Vestager** and the Spanish State Secretary for finance, **Inés María Bardón Rafael**. The aim of both hearings was to enable the Committee MEPs to ask questions and gather further information for their investigation into tax avoidance and fraud.

Hearing with Spanish state secretary of finance

During the hearing, Ms Bardón Rafael called for the implementation of the digital services tax (DST) and argued that it would create a fair level playing field for all companies. Moreover, she overall supported common taxation policies in the EU on both VAT and corporation tax – such as CCCTB and a 15% minimum corporate tax rate, and stated that Council's current decision making framework which requires unanimity on taxation issues should be changed to qualified majority voting (QMV).

Hearing with Commissioner Vestager

At the other hearing, Commissioner Vestager underlined that if Europe is to be a prosperous place, it cannot be based on a taxation race to the bottom. She also added that that she would like to see additional harmonisation of tax practices across Europe, particularly in the areas of VAT and corporation tax.

Concerning the recent Court of Justice of the EU case concerning Belgium and tax state aid, the Commissioner stressed that the ruling showed that the Commission is legally allowed to investigate when there are suspected breaches of state aid rules on taxation. For further information on the ruling, please see the previous Tax Policy Update.

NEW 'WHAT EUROPE DOES FOR YOU' PORTAL LAUNCHED, FLAUNTS PROGRESS ON ANTI-tax evasion – 21 February

The European Parliament has published a new information portal that aims to explain to European citizens what added value the EU provides for their daily lives. Interestingly, the portal contains an extensive section on the fight against tax fraud and evasion. It provides an overview of the EU's key tax initiatives.

According to opinion polls, a majority of EU citizens would like the EU to do more in the fight against tax evasion and fraud. It is therefore not surprising that the European Parliament wants to raise awareness on the matter, ahead of the EU elections in May.

New European Parliament study on digitalisation of international tax – 22 February

TAX3 Committee has published a study that focuses on tax challenges posed by digitalization and new business models, the impact of BEPS, and recent tax developments and reforms in the EU. The study also evaluates alternative approaches to reforming the international tax system.

The study underlines the lack of clarity of the EU's proposal to introduce a digital services tax (DST), which on the one hand can put pressure to reach an international agreement, but might also lead to retaliatory unilateral measures by third jurisdictions.

European Socialists adopt manifesto for EU elections – 23 February

The Party of European socialists (PES) has adopted its EU election manifesto at a Congress in Madrid.

In the manifesto, PES gives great importance to the fight against tax evasion and aggressive tax planning. PES will seek to promote common European approaches to ensure a proper level of effective taxation, and stop downward corporate tax competition. The party also believes profits should be taxed where they are generated, and wants to strengthen rules on the financial and banking sectors.

TAX3 votes on its draft report, calls for mandatory audit rotation – 27 February

TAX3 Committee of the European Parliament has voted on its draft report with recommendations for how to make the EU more robust against tax fraud, avoidance and evasion.

These are some of the amendments (AMs) and compromise amendments (CAs) that passed the vote:

Here is the fate of each of the AMs and CAs that were of interest to us:

- AM 1149 calling for a mandatory seven-year rotation of auditors
    - Adopted by a wide margin of 24 in favour and 16 against
- CA 45 recognising the value of market-led voluntary initiatives on public CBCR such as the payments to governments draft standard prepared by the Global Reporting Initiative (GRI)
- CA 178a calling on the need to ensure that the Audit Directive and Regulation are properly applied
- CA 178 calling for a transparent indication of what audit and non-audit services are provided to clients

In terms of next steps, the European Parliament Plenary will vote on and formally adopt the report and recommendations on 26 March.

Council

New commitment letters published – 18 February

The Council's Code of Conduct Group in business taxation has published additional commitment letters received from third jurisdictions, as part of the EU's tax haven blacklisting process. The latest disclosed letters are from Curacao and Seychelles.

Leaked documents SHOW GERMANY'S LEADING ROLE IN BLOCKING PUBLIC CBCR – 21 February

It comes as no surprise that Germany has played a key role in leading the group of EU Member States that keeps on blocking the public CBCR file in the Council, arguing that it should be legislated on a tax (and thus unanimity) basis, rather than through qualified majority voting (QMV).

However, a new set of leaked documents provide further detail on what Germany is doing behind the scenes to keep the file in a limbo. For example, in June 2016 Germany tabled a so-called review reservation, officially to take its time to reflect on its stance. At a 24 January meeting earlier this year, Germany again failed to take a firm stance on the file.

One might ask why Germany does not simply come out in public against public CBCR, rather than using its objection on the proposal's legal base as an excuse. The Sueddeutsche Zeitung article above argues that this is largely a question of perception: Germany opposes public CBCR, but at the same time is not comfortable about sitting on the same side with traditionally tax reform blocking countries such as Ireland, and on the other hand on the opposing side to France, a country that Germany has vowed to cooperate more closely with at EU level. Therefore the preference to use an 'excuse' reason and block the file.

Germany warms up to QMV on tax – 23 February

Germany appears to be softening its stance on qualified majority voting (QMV) for taxation, with finance minister **Olaf Scholz** declaring that the Commission's "proposals to introduce qualified majority voting on questions surrounding taxation are important and useful".

This apparent change in Germany's stance – traditionally emphasising tax sovereignty of countries – comes soon after the failure of the Council to agree on the so-called digital services tax (DST) at the December 2018 ECOFIN.

Bruno Le Maire losing hope on DST – 26/28 February

Despite his best efforts, the French Finance Minister **Bruno Le Maire** is showing signs of fatigue on the digital services tax file. He has now stated that he no longer believes that an agreement can be found on DST at the 12 March ECOFIN meeting.

Instead, he argues that an international OECD agreement on the taxation of digital economy is possible already by the end of 2019 – way earlier than the 2020 deadline set by the OECD. This is because countries such as the US and Ireland are also on board and convinced of the need for tax reforms.

Court of Justice of the EU – Rulings

Cases C 116/16 & 117/16: exemption of dividend and interest payments from withholding tax – 26 February

Link

Cases C 115/16, C 118/16, C 119/16, C 299/16: interpretation of the Interest and Royalty Directive – 26 February

Link

C-135/17: free movement of capital and taxation – 26 February

Link

C-581/17: Taxation of unrealised capital gains – 26 February

Link

International

New Zealand Is Planning a Digital Tax for Online Giants – 18 February

New Zealand's government has announced plans for a new tax targeting online giants like Google and Facebook.

The country's prime minister **Jacinda Ardern** argues that the current tax system is not fair towards less digitalised businesses. The government's proposal suggests taxing certain multinationals at a maximum 3% on the revenue they generate in New Zealand, in line with what other countries are considering.

The government plans on implementing the tax next year, while continuing its work in the OECD to find an international solution.

OECD

OECD invites taxpayer input on eighth batch of dispute resolution peer reviews – 19 February

The OECD is gathering input for peer reviews of Brunei Darussalam, Curaçao, Guernsey, Isle of Man, Jersey, Monaco, San Marino and Serbia on their progress with the OECD BEPS recommendations on dispute resolution and Mutual Agreement Procedures (MAPs).

It invites taxpayers to submit input on specific issues relating to access to MAPs, clarity and availability of MAP guidance and the timely implementation of MAP agreements for each of the jurisdictions. The deadline for responding is 19 March 2019.

OECD extends digital tax consultation deadline – 19 February

The OECD has extended the deadline for providing comments to its digital tax consultation to 6 March. The original deadline was 1 March.

For further information on the OECD's digital tax consultation, please consult Accountancy Europe's Tax Policy Update from 13 February.

Other News

SURGE IN US ECONOMISTS' SUPPORT FOR CARBON TAX TO TACKLE emissions – 17 February

A carbon tax would be the most effective and immediate way of tackling climate change, according to US economists. As the second-biggest emitter of carbon dioxide behind China, climate change will be a major 2020 election issue in the US.

The economists envisage a carbon border tax that would impose a levy on carbon-intensive goods that enter the US from countries without a carbon price. Large companies like BP or Shell are backing the project, while economists are now waiting for the next administration as progress is not expected during this Presidency's mandate.

Events

- 13-14/03/2019, ***Public hearing on digital taxation***, OECD, Paris. Source
- 19/03/2019, ***Tax Morale and Integrity in Developing Countries***, OECD, Paris. Source
- 20/03/2019, ***Future trends of taxation***, ETAF, Brussels. Source
- 06/06/2019, ***Creating Tax Certainty in an Uncertain World***, CFE, Brussels. Source