

# CFE's Tax Top 5

## KEY TAX NEWS OF THE WEEK

BRUSSELS | 16 JULY 2018



### 5<sup>th</sup> Anti-Money Laundering Directive Enters Into Force

On 9 July, the [5<sup>th</sup> Anti-Money Laundering Directive](#) entered into force, following publication in the EU Official Journal. Member States now have to implement these new rules into their national legislation before 10 January 2020.

The Directive introduces increased transparency requirements, such as enhanced levels of access to beneficial ownership registers concerning both companies and trusts, and measures to limit anonymous payments through pre-paid cards and virtual currency platforms. The Directive also introduces increased customer verification processes and checks for transactions involving third countries, as well as an increased exchange of information.

Speaking about the Directive, Věra Jourová, Commissioner for Justice, Consumers and Gender Equality said *"This is another important step to strengthen the EU framework to combat financial crime and terrorist financing. The 5th Anti-Money laundering directive will make the fight against money laundering more efficient."*



### Netherlands Issues Statement Concerning Starbucks State Aid Case

The Netherlands recently [published](#) a statement setting out its position in relation to the European Commission decision that the Netherlands had provided illegal state aid to *Starbucks Manufacturing B.V.*

The Netherlands assert that the Commission failed to carry out a proper analysis based on the arm's length principle as contained in Dutch national law and regulations, and note that Member States have autonomy as concerns direct taxation. It further states that the Netherlands is of the view that the Commission is attempting to impose its own interpretation of the arm's length principle, which is not supported by Article 107 of the Treaty.

The Netherlands has appealed against the ruling of the Commission, and a hearing concerning the case took place in the General Court of the European Union on 2 July 2018. The Netherlands note in its statement that the decision of the General Court can be appealed further to the Court of Justice of the European Union, indicating that it will likely appeal any adverse decision of the General Court.



## Commission Releases Clarification Document on EU DAC6 Mandatory Disclosure Rules Hallmarks

Ernst and Young have [published](#) a document provided by the European Commission which was compiled by the Taxation and Customs Union Department in response to requests by Member States for clarification concerning the hallmarks contained within the Mandatory Disclosure DAC6 Directive.

It should be noted that the document was prepared prior to the final version of the Directive being agreed, and that the terms of the hallmarks have changed since it was produced. However, the document sets out in detail the origins of hallmark texts, and the types of tax avoidance targeted by each of the hallmarks. In 2020, intermediaries and relevant taxpayers will be required to disclose information on reportable cross-border arrangements the first step of which was implemented after 25 June 2018, i.e. the date of application of the Directive.

The practicalities of implementation of the Mandatory Disclosure Rules DAC6 Directive, as well as an analysis of policy implications, will be the topic of this year's CFE Professional Affairs Committee Conference on 23 November, in Madrid, Spain co-organised by the CFE and AEDAF, the Spanish Association of Tax Advisers. Details of the event will be posted on the CFE website [Events Page](#) in due course.



## EU Commission Releases 2017 Annual Report on National Implementation of EU Law

The European Commission has [published](#) its 2017 report which monitors the annual implementation and compliance of Member States with EU law.

The 2017 report demonstrates that there has been a decrease of 5.91% of open infringement cases as compared with 2016, and a significant decrease of 34% in the number of new infringement cases being opened against Member States. The report concludes that Member States have improved in the transposition of Single Market-related rules, although there has been an increased number of observed problems in relation to openness to cross-border trade in goods and services.

These trends were reflected in the taxation field, where the number of new infringement cases opened had also decreased since 2016. Implementation issues earmarked as the focus for further work in 2018 included: assessing conformity of rules on the mandatory automatic exchange of information on taxation, following up on the application of Court judgments, and the monitoring of cases affecting the economic situation of business, such as VAT refunds.



## OECD Publishes Tax Transparency Compliance Ratings

The OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes, has [published 7 peer review reports](#) which assess the compliance of jurisdictions with international tax transparency standards. The Global Forum includes 150 members, including all G20 and OECD countries, as well as international financial institutions.

Guernsey and San Marino were rated as being "compliant" with the standards, whilst Indonesia, Japan, the Philippines and the United States received a rating of "largely compliant". Kazakhstan was rated as "partially compliant".



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