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EU Tax Policy Report

Semester I 2020

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CFE's EU Tax Policy Report provides a detailed analysis of primary tax policy developments at EU level of interest to European tax advisers. It also includes an overview of relevant CJEU case-law European Commission decisions covering the first half of 2020.

Highlights

The COVID-19 pandemic conditions that developed in the first six months of 2020 led to extreme public health and economic challenges, shifting the focus of the wider community into contending the impact of COVID-19. In the EU, Croatia, who held its first ever Presidency of the Council of the European Union from 1 January 2020 to 30 June, was successful in managing to achieve progress on multiple taxation files despite the extreme challenges posed by the COVID-19 outbreak.

The ECOFIN Council overview report on the progress on tax policy work achieved under the Croatian Presidency of the EU, highlighted in particular the agreement reached on the legislative package on mandatory transmission and exchange of VAT relevant payment information, the adoption of the directive on the common system of value added tax as regards the special scheme for small enterprises, the conclusions on the future evolution of administrative cooperation in the field of taxation in the EU and the negotiations on amending the administrative cooperation directive ("DAC6") to defer deadlines for exchange of information as a result of the coronavirus crisis. Under the Croatian EU Presidency, the European Commission also launched an Action Plan on the fight against tax fraud. Additionally, it initiated work on an "EU Single Window" for customs, to facilitate and simplify customs formalities and bolster customs administrations on EU external borders.

Germany, who holds the Presidency of the Council of the European Union from 1 July 2020 to 31 December, has significant tax priorities for its upcoming Presidency period, including fair taxation of the digital economy, reducing tax evasion, simplification of taxation within the EU and increased cooperation between European Member States' tax administrations. The German Presidency will also focus on recovery from the COVID-19 crisis, as well as on creating *"a stronger and more innovative Europe, a fair Europe, a sustainable Europe, a Europe of security and common values and a strong Europe in the world."*

Negotiations for a comprehensive post-Brexit free trade agreement between the EU and the UK also need to be finalised in the coming months to avoid a 'cliff-edge' scenario come the end of the transition period on 1 January 2021, under which the UK and EU will trade on less than optimal WTO terms. A joint EU-UK statement issued in June confirms that the UK will not entertain an extension of the transition period, and states that significant progress still needs to be made to agree an exit deal. It indicated that negotiations will be intensified in the coming months, though the recent statement of EU negotiator Michel Barnier is less than encouraging as to the likelihood of an agreement being reached. The fisheries industry and access to the single market remain stumbling blocks in the negotiations.

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EU Commission 2020 Tax Package

01

EU Tax Package 2020: The First Tax Files of the Von Der Leyen Commission

The European Commission published its Tax Package for "fair and simple taxation" in July, designed to address issues experienced in EU taxation arising in the course of *"a 'taxpayer's journey': from registering your business, to reporting, payment, verification, dealing with disputes."* The Tax Package is comprised of the following:

- **Tax Action Plan In 25 Steps**

  The Action Plan consists of 25 steps to be taken by the Commission designed to make taxation *"fairer, simpler and more adapted to modern technologies".*

  As concerns indirect taxation, the Action Plan includes steps to: create a single VAT registration; modernise VAT reporting; update VAT rules for financial services and the sharing economy; extend the scope of the VAT One-Stop-Shop; monitor VAT transactions in real time through Eurofisc; launch an E-Commerce package for excise goods; evaluate and revise the special VAT scheme for travel agents; review and align VAT rules for passenger transportation with the EU Green Deal; and create a dispute resolution mechanism for VAT disputes.

  The Commission's Action Plan concerning direct taxation matters includes steps to: extend the automatic exchange of information to crypto assets and e-money; introduce digital solutions to levy taxes at source to facilitate tax payment/collection; harmonise tax residence criteria to avoid double (non)-taxation; improve technological tools for the exchange and sharing of tax information; establish a Cooperative Compliance framework to discuss means to resolve common cross-border tax issues; implement a standing committee for dispute resolution; examine the use of tax data by tax administrations; create an EU Tax Observatory examining issues of tax avoidance and evasion; create a Transfer Pricing Expert Group; and review and issue recommendations concerning taxpayers' rights and tax obligations.

  A schedule setting out the planned actions and their anticipated delivery dates can be found here.

- **After "DAC6"- "DAC7" or How to Tax the Digital Platform**

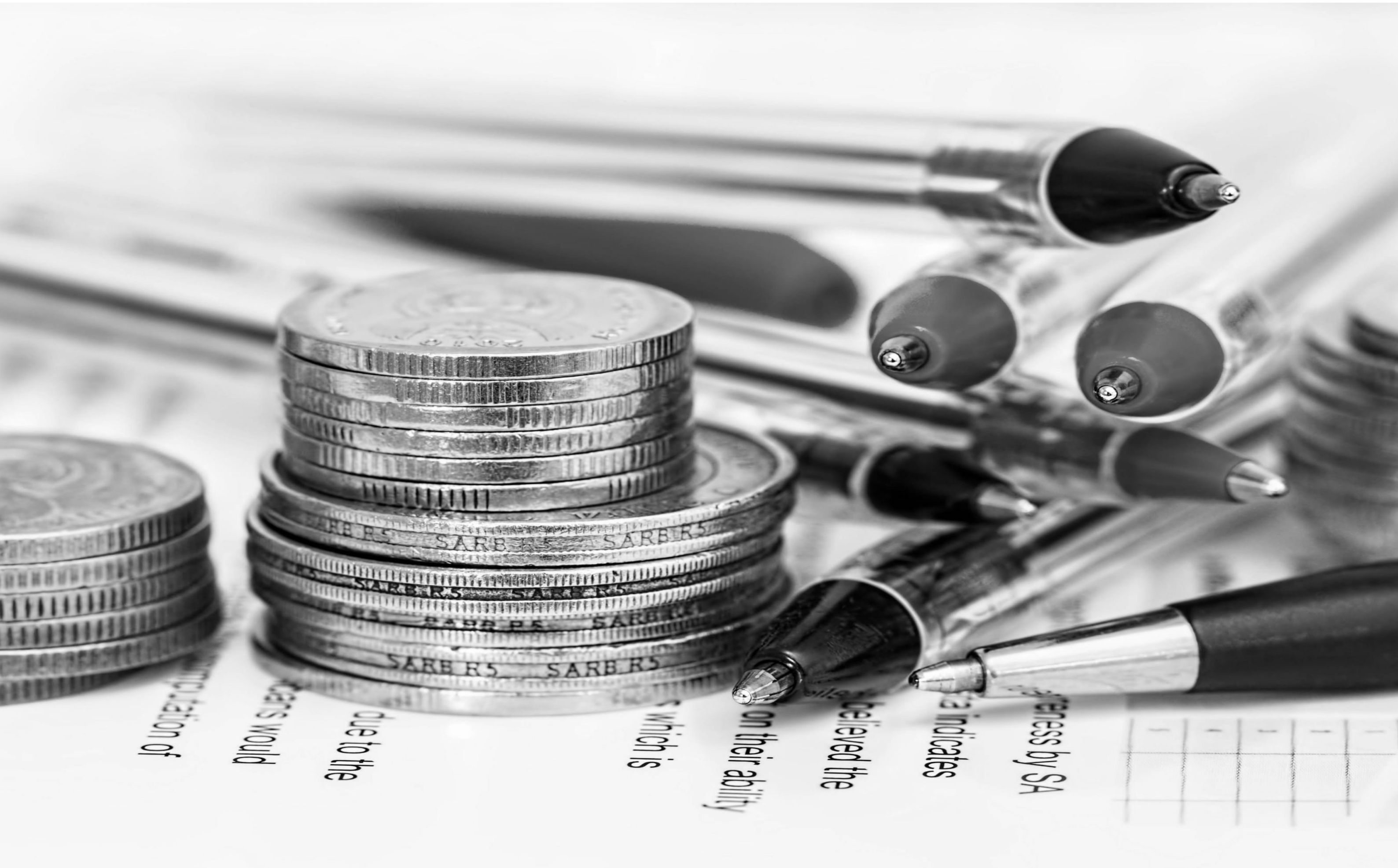
  The Commission has issued a proposal for a Council Directive to revise the Directive on Administrative Cooperation to extend EU exchange of information rules to information on income generated by sellers on digital platforms.

Platforms will be required to report on the provision of services, the sale of goods, rental of property, rental of any mode of transport and investment, and lending in the context of crowdfunding.

The main issue that drives this Commission's initiative to revise the DAC framework is the inability of tax administrations across the EU to obtain tax-related information on taxpayers who do business via the digital platform economy. According to the European Commission: "Member States' tax administrations have little information to correctly assess and control gross income (revenues) earned in their country via activities (such as renting a property via a web platform or giving a ride to a person who needs a lift and/or other cases) made via the intermediation of some digital platform which basically matches demand and supply. This is especially the case when the income or the taxable amount passes via platforms established elsewhere."

The Directive aims to reduce administrative burdens on platforms by simplifying reporting requirements, enabling platforms to report in one single country of their choosing, once per year, allowing national tax authorities to identify where tax should be paid through the exchange of information. The Directive also sets out rules concerning joint tax audits.

Executive Vice-President Valdis Dombrovskis stated that *"In the future, EU countries should automatically exchange information about revenues that sellers generate by using online platforms. The idea is also to strengthen and clarify rules in areas where national governments work together to fight tax abuse, for example, joint tax audits."*



- **The External (and a bit of an Internal) Tax Strategy: Communication on Tax Good Governance in the EU & Beyond**

  The Commission's Communication discusses means to improve the EU's role in promoting tax good governance and tax transparency, which it aims to achieve by reforming the Code of Conduct on Business Taxation and making improvements to strengthen the EU's List of Non-Cooperative Jurisdictions for Tax Purposes. The Communication also outlines the EU's plan to meet its 2030 Sustainable Development Goals by assisting developing countries in the area of taxation.

  The Commission aims to update the scoreboard used to select the jurisdictions that are screened by the Code of Conduct Group, and to review the criteria that jurisdictions must comply with, to update these to take into account developments in tax evasion practices. Additionally, the Commission aims to expand the mandate of the Code of Conduct Group to examine conditions leading to unfair tax competition and aggressive tax planning within the European Union, such as tax residency rules allowing for double non-taxation, tax exemptions without appropriate safeguards and special citizenship schemes. It also plans to introduce the parameter of minimum effective taxation.

  On the topic of tax good governance, CFE was pleased to be reappointed as a member of the European Commission's Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation. The Platform was established by the European Commission in order to seek advice and assistance from expert stakeholders in the field of tax good governance, aggressive tax planning and double taxation. The Platform also provides an opportunity for members to exchange views and have an open dialogue with the European Commission concerning significant taxation issues facing the tax profession and wider society.

  CFE is honoured to be among the limited number of non-governmental members and to be the only organisation of advisers in the professional tax field selected to participate in the important work the Platform carries out. In line with Commission Decision 2019/C 428/08 on the renewal of the platform's members, CFE's mandate at the Platform for Tax Good Governance will run until 31 October 2022, after which time CFE will have the possibility to renew its participation. CFE will be represented at the Platform by CFE President, Professor Piergiorgio Valente and Aleksandar Ivanovski, Tax Policy Manager at CFE Tax Advisers Europe. CFE has been a member of the Platform since its inception in 2012 and has benefited from the opportunity to provide its input on many significant taxation issues through its participation at the expert group.

In the fall of 2020 the Commission will publish its plans for business taxation for the 21st century, which will aim to complement the work being undertaken by the OECD on addressing challenges of the digital economy and minimum taxation. In early 2021, it will also set out plans for revising EU rules on energy taxation and introducing a WTO-compatible carbon border adjustment mechanism.

Taxation Harmonisation Without Unanimity?

Article 116 of the Treaty of the Functioning of the European Union

As part of the 2020 Tax Package, the European Commission is considering using the powers of Article 116 of the Treaty of the Functioning of the European Union (TFEU) to bypass the unanimity requirement to decision making in taxation. Under this provision, the European Parliament and the Council can issue directives in areas which cause distortions of the Single Market in accordance with the ordinary legislative procedure. In practice, if the Commission proposes use of this procedure, it will require qualified majority from the outset to adopt directives in the taxation area, should distortions of the Single Market be established as a reason.

The European Commission Communication stated that “to fully deliver on the EU’s fair tax agenda, all existing policy levers have to be activated. It is in this context, that the Commission will explore how to make full use of the provisions of the TFEU that allow proposals on taxation to be adopted by ordinary legislative procedure, including article 116 TFEU. Article 116 states that if the commission finds that differences in the way EU rules are implemented in member states end up distorting competition within the single market it can "issue the necessary directives" through the "ordinary legislative procedure".

Commenting, Valdis Dombrovskis, EU Commission executive vice-president said: "Article 116 of the treaty is there to address distortions to the single market and it’s true that certain tax structures may also create distortions in the single market. That’s indeed why the Commission is working in this area and is ready to come forward with proposals [as to] how to address certain harmful tax structures which are causing distortions in the single market through this Article 116 of the Treaty. Of course we are aware of discussions also among member states. But I think it’s true we need to explore different avenues how to make taxation more effective, how to close different loopholes in our tax systems, how to close harmful tax structures, and Article 116 can be useful in this regard.”

In spite of discussions about tax harmonisation via shortcut, Article 116 would not be an appropriate legal mechanism for genuine tax harmonisation, such as enactment of common consolidated corporate tax base (CCCTB).

Case Law & EU State Aid Update

02

Controversial Decision of the General Court in Apple State Aid Case: Commission Won on Principles but Lost the Case: Is Appeal Likely?

The highly anticipated decision of the General Court in Ireland and Apple's €14 billion appeal in the State aid case concerning Ireland's tax treatment of Apple was published last week. The Court has annulled the Commission's decision that Ireland's tax authorities granted Apple a "selective advantage" by failing to employ appropriate profit allocation methods to apportion income of the Irish Apple branches, in contravention of EU State aid law. Ireland's and Apple's lawyers argued that the fact that Apple's products and services were developed in the United States exposed flaws in the primary line of the Commission's arguments, arguing the two branches simply could not be responsible for generating all of Apple's profits outside the US. Lawyers for the Commission argued that Ireland had not carried out the requisite assessment of the subsidiaries' activities, risks or assets. In addition, the Commission claimed at the hearing that the Irish Revenue, by accepting the 'arbitrary method' of calculating profits suggested by Apple without carrying out any assessment in itself gave rise to selective advantage, in contravention of both Irish tax law and EU State aid law.

The General Court held that:

> The Commission did not succeed in showing to the requisite legal standard that there was an advantage for the purposes of Article 107(1) TFEU…[and] incorrectly concluded, in its primary line of reasoning, that the Irish tax authorities had granted…an advantage as a result of not having allocated the Apple Group intellectual property licences and trading income…to the Irish branches…The Commission should have shown that that income represented the value of the activities actually carried out by the Irish branches themselves.
>
> The General Court considers that the Commission did not succeed in demonstrating, in its subsidiary line of reasoning, methodological errors in the contested tax rulings which would have led to a reduction in…chargeable profits in Ireland. Although the General Court regrets the incomplete and occasionally inconsistent nature of the contested tax rulings, the defects identified by the Commission are not, in themselves, sufficient to prove the existence of an advantage for the purposes of Article 107(1) TFEU. Furthermore, the General Court considers that the Commission did not prove, in its alternative line of reasoning, that the contested tax rulings were the result of discretion exercised by the Irish tax authorities and that, accordingly, ASI and AOE had been granted a selective advantage.

Commission Executive Vice President Margrethe Vestager in a press release discussing the outcome of the case stated, *"The Court once again confirmed that Member States must set their tax laws in respect of EU law, including State aid rules. The Court also confirmed the Commission's approach to assess whether a measure is selective and whether transactions between group companies give rise to an advantage under EU State aid rules based on the so-called 'arm's length principle'. We will decide on next steps once we have concluded our assessment of the judgment. But one thing is clear – the fight against aggressive tax planning is a marathon and not a sprint, and it takes place on very hilly ground."*

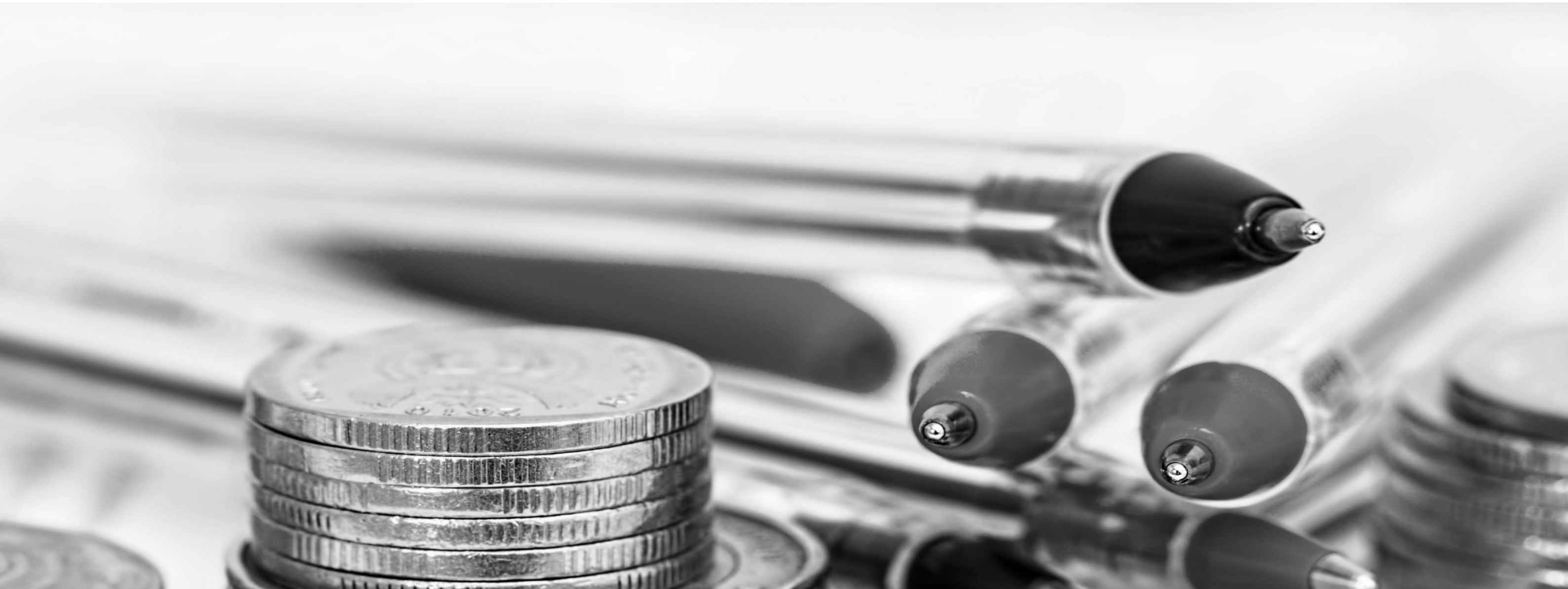
Should there be an onward appeal of the General Court judgment, the final determination of the case will be made by the Court of Justice of the European Union. The Court of Justice has repeatedly disagreed with the General Court on substantive issues concerning the notion of State aid (*Gibraltar, World Duty Free*) where the ECJ subsequently annulled General Court judgments in particular regarding the interpretation of the 'selectivity' criterion. It remains to be seen whether the Commission will appeal the decision, or whether, as a result of these developments, it will instead focus its efforts on Article 116 TFEU as a means to address Single Market distortions instead of Article 107(1) TFEU enforcement.

Commission Extends Scope of IKEA State Aid Investigation

The Commission has confirmed it will extend the scope of its State aid investigation into the tax treatment of Inter IKEA by the Netherlands, initially opened in December 2017. The European Commission also published a non-confidential version of the decision to expand the investigation.

The investigation relates to two tax rulings – advance pricing agreements (APAs) concluded by the Dutch Tax Administration and IKEA's Dutch subsidiary, Inter IKEA Systems BV. The Commission has now extended the investigation to examine amortisation of the IP in more recent years by the Dutch subsidiary, and whether deduction of the amortisation by the Dutch subsidiary granted a selective advantage over other companies. Commission's focus is now both the transfer-pricing rulings and IKEA's annual tax assessments for the tax years since 2006. The Commission decision and the letter addressed to the Government of the Netherlands have now been made publicly available by DG COMP.

In relation to the State aid investigations into tax rulings (e.g. advance pricing agreements - APAs), Vestager said that the Commission has been successful in addressing preferential treatment offered to some companies by way of administrative tax rulings, but the Commission does not intend to stop its fiscal State aid investigations. "We have seen a number of changes on ground. We've seen that in Luxembourg. They have changed the way they do tax rulings. Same in the Netherlands. The Commission has no plans to halt its efforts chasing individual tax rulings, Vestager said.



ECJ Revisits 'Final Losses' Doctrine in Case C-405/18 *AURES*

The Court of Justice revisited its 'final losses' doctrine in the *Case C-405/18 Aures*, by establishing that Member states are not required to take into account losses accrued by a taxpayer in its former jurisdiction of tax residency. By such conclusion, the Court upheld its *National Grid Indus* (C-371/10) conclusions, explaining that the freedom of establishment does not oblige Member State of transferred residence to take into account losses realised in another Member State, which definitely fall outside the scope of its taxing jurisdiction.

The situation of Aures Holding was different to the one in *Case C-650/16 Bevola*, as the State of residence did not have tax jurisdiction over losses accrued while the company was under tax jurisdiction of another EU Member state.

Accordingly, the Court concludes, resident companies with losses in one Member State, and companies which transferred their tax residence to that Member State and had incurred a loss in another Member State in respect of a tax year during which they were tax residents in the latter Member State, are not in a comparable situation in the light of the objectives of preserving the allocation of the power to impose taxes between the Member States and preventing the double deduction of losses (para 53).

CFE Tax Advisers Europe published an Opinion Statement on the Court of Justice decision of 12 June 2018, in Case C-650/16 *Bevola*, concerning the utilisation of "final losses" attributable to a foreign permanent establishment and the viability of the *Marks & Spencer* "definitive losses" doctrine.

Turnover Taxes Not Discriminatory: ECJ Decisions in *Tesco* & *Vodafone*

On 3 March 2020, the European Court of Justice delivered its judgments in Cases C-323/18, *Tesco-Global Áruházak Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli* and C75/18, Vodafone Magyarország Mobil Távközlési Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága, two Hungarian cases concerning whether or not steeply progressive turnover taxes which targeted the retail and telecommunication sectors were discriminatory or contrary to the freedom of establishment. The Court in both cases held that *"Articles 49 and 54 TFEU must be interpreted as not precluding the legislation of a Member State that establishes a steeply progressive tax on turnover, the actual burden of which is mainly borne by undertakings controlled directly or indirectly by nationals of other Member States or by companies that have their registered office in another Member State, due to the fact that those undertakings achieve the highest turnover in the market concerned."*

Notably, the Court held in *Vodafone*, at paragraph 52, that *"The fact that the greater part of such a special tax is borne by taxable persons owned by natural persons or legal persons of other Member States cannot be such as to merit, by itself, categorisation as discrimination".* The Commission has issued a statement concerning the judgments, stating: *"The Commission takes note of the ECJ's preliminary rulings concerning the compatibility of the sectoral taxes levied in Hungary on the turnover of retail and telecommunications operators and undertakings with EU free movement rules. The Commission also takes note of the clarifications provided by the ECJ as to the admissibility of State aid questions in cases where taxpayers invoke the unlawfulness of taxes under State aid rules to avoid paying these taxes. The Commission will carefully examine the judgments."*

Advertisement Tax Declaration Requirements Not Contrary to EU Law: ECJ Judgment in *Google Ireland* & *Hungarian Tax Administration*

On 3 March 2020, the Grand Chamber issued its judgment (based on a reference for a preliminary ruling per Article 267 TFEU) in Case C-482/18 *Google Ireland v Hungarian Tax Administration* related to the Hungarian advertisement tax. Essentially, the Court follows AG Kokott's Opinion and declares that the obligation to submit a tax declaration imposed on non-resident companies for the purposes of Hungarian advertisement tax on turnover does not constitute a restriction on the freedom of establishment, i.e. Article 56 TFEU, in spite of the fact that Hungarian companies do not have such an obligation by law. The Court was not asked to rule on the legality of the turnover advertisement tax as such, but the Court notes however that *"it must be borne in mind that Article 56 TFEU precludes the application of any national rules which have the effect of making the provision of services between Member States more difficult than the provision of services purely within a Member State."* (*Austria v Germany*, C-591/17, para 135).

The Hungarian system of imposition of fines, however, was found to be in breach of Article 56 TFEU. In essence, the Hungarian law imposes fines on non-resident taxpayers within scope of the advertising tax, which increase incrementally for failure to register as a taxpayer liable for the tax and for failure to submit a tax return on time. This practice was found to be a restriction on the cross-border provision of services, which disproportionally affects foreign companies.

The Court ordinarily accepts that such a restriction of the fundamental freedoms might be justified by overriding reasons of public interests, such as the need to preserve the integrity of its tax regime, ensuring the effectiveness of fiscal supervision and the effective collection of tax, all of which were invoked by the Hungarian government. The Court did not accept such justifications in the present case on grounds of proportionality (para 49 of the judgment). The Court supported its decision citing factors such as disproportionality of the penalty in relation to the actual turnover of the company and discretion of the tax authority in relation to subsequent decreasing of the fine, all of which were found to be contrary to the freedom of establishment.

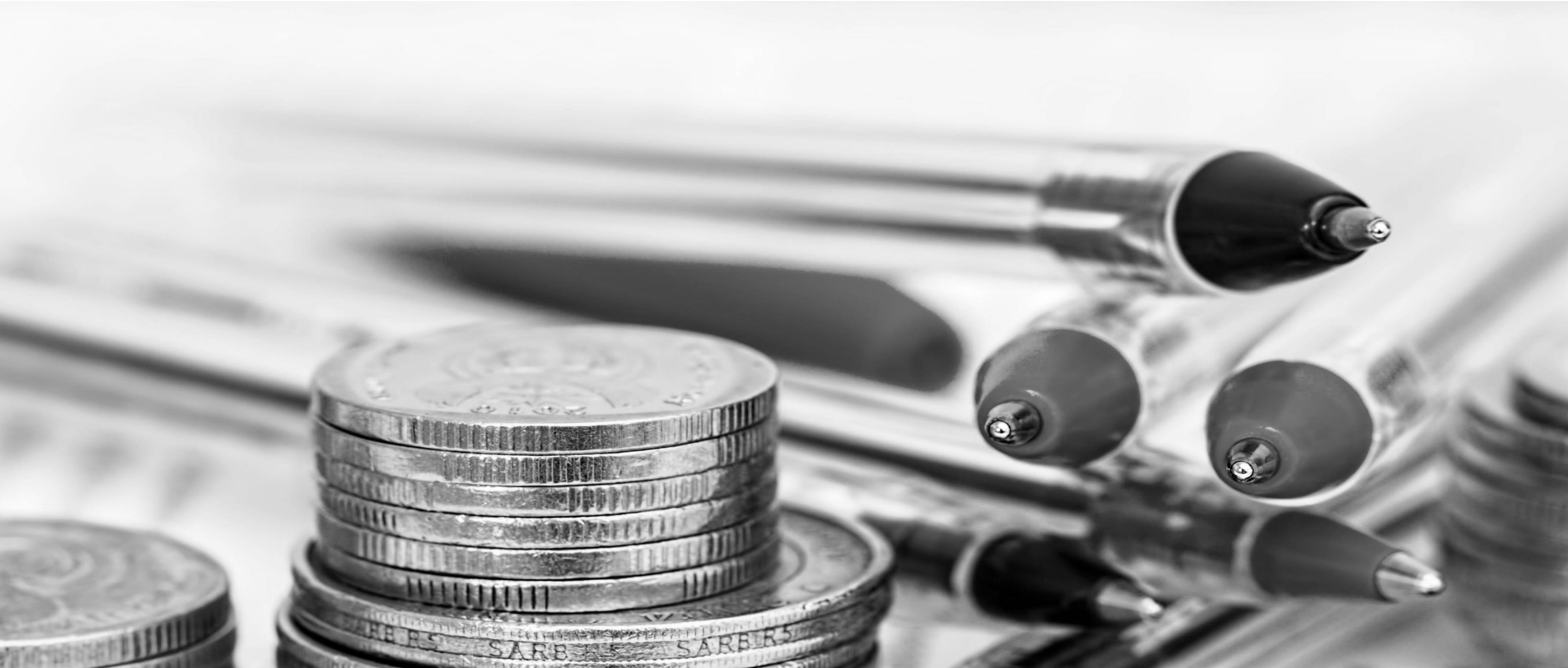
Decision of the CJEU in Case C-547/18 on Place of Supply & PE Under EU VAT

The Court of Justice of the European Union has recently delivered its decision in Case C-547/18 *Dong Yang Electronics Sp. z o.o. v Dyrektor Izby Administracji Skarbowej we Wrocławiu*, a reference for a preliminary ruling from the Polish Regional Administrative Court, in which the Court of Justice was asked to give its ruling concerning the place of supply of services under VAT law.

The case concerned a Korean company, Dong Yang Electronics, who, with the involvement of its Polish subsidiary, engaged a Polish entity to make supplies of assembly services. The Court was asked to determine whether the involvement of its Polish subsidiary created a fixed establishment of the Korean contractor, such that the place of supply was Poland, creating an obligation for European VAT to be paid.

The ECJ in its decision held that *"a permanent establishment of a company established in a third State cannot be inferred by a service provider solely from the fact that that company has a subsidiary there"* and that *"Article 44 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2008/8/EC of 12 February 2008, and Article 11, paragraph 1, and Article 22, paragraph 1, of the implementing Regulation (EU) No o 282/2011 of the Council of 15 March 2011 laying down implementing measures for Directive 2006/112, must be interpreted as meaning that the existence, within the territory of a Member State, of a permanent establishment of a company established in a third State cannot be inferred by a service provider solely because this company has a subsidiary there and that this service provider is not required to inquire, for the purposes of such an assessment, of the contractual relations between the two entities."*

The Court did not follow the Advocate General Opinion of AG Kokott in this case, in which AG Kokott held that in principle a subsidiary of a company established outside the EU should not be regarded as a fixed establishment for VAT purposes, except in circumstances where the contractual structure concerning the arrangements could be shown to contain elements of abuse.



ECJ Decision on Cooperation Between Member States Tax Authorities for VAT Purposes

The Court of Justice of the European Union has delivered its decision in Case C-276/18, *KrakVet Marek Batko sp.k. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága*, a request for a ruling from the Hungarian Administrative Court. The case concerned a pet goods company established in Poland, which made supplies to Hungarian customers using a Hungarian version of its website. The company applied distance sales rules, applying Polish rates of VAT on the basis that the supplies made were under the relevant threshold. The supplies were transported to Hungary using a Polish transportation company, who delivered the goods to two distribution points in Hungary. From the distribution points, the goods were then delivered to customers by a Hungarian transportation company.

The company applied to the Polish tax authorities for a ruling on the place of supply concerning the Hungarian customers, who took the view that the transactions were carried out in Poland. The Hungarian tax authorities subsequently carried out inspections concerning the supplies, and required KrakVet to pay the difference in VAT, together with a penalty and interest and a fine for falling to comply with its obligation to register for VAT in Hungary. The Court was asked to consider the scope of the obligation of cooperation between the authorities of the Member States under Regulation No 904/2010 and the interpretation of the concept of supplies of goods dispatched or transported 'by or on behalf of the supplier', within the meaning of Article 33 of Directive 2006/112" and whether *"it is possible for the Hungarian tax authorities, in the light of the principle of fiscal neutrality and the objective of avoiding double taxation, to adopt a different position from that of the Polish tax authorities".*

The Court held, in Paragraph 97 of the decision that "Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and Articles 7, 13 and 28 to 30 of Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax must be interpreted as not precluding the tax authorities of a Member State from being able, unilaterally, to subject transactions to value added tax treatment different from that under which they have already been taxed in another Member State.

Article 33 of Directive 2006/112 must be interpreted as meaning that, when goods sold by a supplier established in one Member State to purchasers residing in another Member State are delivered to those purchasers by a company recommended by that supplier, but with which the purchasers are free to enter into a contract for the purpose of that delivery, those goods must be regarded as dispatched or transported 'by or on behalf of the supplier' where the role of that supplier is predominant in terms of initiating and organising the essential stages of the dispatch or transport of those goods, which it is for the referring court to ascertain, taking account of all the facts of the dispute in the main proceedings.

EU law and, in particular, Directive 2006/112 must be interpreted as meaning that it is not necessary to find that transactions by which goods sold by a supplier are delivered to purchasers by a company recommended by that supplier constitute an infringement of the law when, on the one hand, there is a connection between the supplier and that company, in the sense that, irrespective of that delivery, the company takes charge of some of the supplier's logistical needs, but, on the other hand, the purchasers remain free to make use of another company or personally collect the goods, since those circumstances are not liable to affect the finding that the supplier and the transport company recommended by it are independent companies which engage, on their own behalf, in genuine economic activities and, consequently, those transactions cannot be classified as abusive."

EU & OECD COVID-19 Recovery & Guidance

03

EU COVID-19 Recovery Plan & Budget Negotiations

At the Special European Council meeting which took place from 17 – 21 July, EU leaders reached an historic agreement after marathon negotiations on the Commission's EU recovery package proposal launched in late May to "repair and prepare" the European Union following the impact of the coronavirus crisis on the EU economy and to agree on the EU budget for 2021 - 2027.

Leaders agreed to a new recovery instrument, the "Next Generation EU", a one-off recovery measure to be embedded within the EU budget for 2021 – 2027. 750 Billion Euros will be raised by the Next Generation EU recovery instrument, by lifting the ceiling on own borrowing on the open market, with 390 billion to be raised in grants and 360 billion in loans, which will be anchored in "*solid governance*". The Recovery fund is intended to support Member State investments and reforms, incentivise private investment and strengthen EU healthy security and prepare for future crises. The fund will invest in programmes that align with EU policy priorities, in particular the European Green Deal, in circular economy and renewable energy projects, as well as in projects that strengthen the Single Market and the EU's digital and technological presence.

An amount of 1,074 billion euros was agreed by European leaders for the MFF 2021 – 2027 budget, with 30% of the Recovery Fund and the MFF to be invested in programmes fighting climbing change, although President Von der Leyen noted that "regrettable" adjustments had been made by leaders to the proposed MFF and Next Generation EU recovery instrument, *"for example in health, migration, external action and InvestEU; they have not taken up the Solvency Instrument".* Council President Charles Michel said of the adjustments "*Looking at the MFF and the Recovery Fund together and comparing them with the current situation, we can see that in each case additional funding will be mobilised in the various areas such as digital, Horizon Europe and Erasmus. And we also propose to establish a special Brexit reserve, because we are mindful that in any scenario, with or without a deal, we will need to support the countries and sectors most directly affected by the economic consequences of Brexit."*

The EU Parliament held an Extraordinary Plenary on 23 July and passed a resolution deploring the significant cuts made to the grants component of the Recovery Fund and the flagship EU programmes. Parliament also stated it *"strongly regrets that the European Council significantly weakened the efforts of the Commission and Parliament to uphold the rule of law, fundamental rights and democracy in the framework of the MFF and the recovery plan".*

The Parliament has a final say on the agreement, and has stated MEPs are "prepared to withhold their consent" unless an agreement can be reached between Council and Parliament. It is hoped an agreement can be reached by the end of October so as not to impact on EU programmes in 2021. Earlier in the crisis, the European Commission adopted a Temporary Framework concerning State aid measures to assist Member States in minimising the economic impact of the COVID-19 outbreak. The Framework allows Member States to provide aid by: providing grants, selective tax advantages, advance payments, providing State guarantees for loans taken by businesses, subsidising public loans to companies, putting in place safeguards for banks providing State aid to the economy and providing short-term export credit insurance. After consulting with Member States and in order to counter adverse effects of the corona virus crisis, the Commission has also made further changes to the rules being prolonged and to the State Aid framework for research and development to *"allow companies which entered into difficulties as a result of the coronavirus outbreak, and which would not, under existing rules, be able to receive certain types of aid, to remain eligible to receive aid.. for a set period of time during and after the crisis"* and has also *"introduced certain targeted changes to the existing rules to ensure that job losses that a company may incur due to the coronavirus outbreak would not be considered as a relocation and hence a breach of the commitments previously undertaken."*

Additionally, in April, EU Finance Ministers agreed on a half-trillion Euro recovery package, to be administered by the European Stability Mechanism, which will provide targeted relief for EU economies in response to the COVID-19 outbreak. The package will provide for precautionary credit lines, an interim solidarity instrument to provide loans to Member States from the EU which aim to protect jobs and employees amidst the COVID-19 crisis. In addition, a pan-European guarantee fund will be implemented by the European Investment Bank, to support EU businesses, in particular SMEs.

The European Commission also prolonged the application of State Aid rules which were set to expire at the end of 2020. Many of the rules have been prolonged by one year, in order for the Commission to carry out fitness checks and evaluate how the State Aid Rules can best be adapted to fit with the priorities set in the European Green Deal and European Industrial Strategy.

OECD Cross-Border Tax Issues Guidance

Following the outbreak of the coronavirus, the OECD created a dedicated webpage providing information and country profiles on the spread of the virus, as well as topical blogposts concerning issues surrounding the crisis, and recommended responses concerning a variety of policy areas. Pascal Saint-Amans, in a blogpost stated that *"one of the few certainties is that tax policy will play an important role in the immediate response of governments to support individuals and businesses, as well as in future rounds of policy action, including to rebuild our economies, which will ultimately take place once the health crisis has been contained. The OECD, working with other international organisations, will deploy all its data gathering power and analytical capacities to help governments across the world."*

The OECD recommends a range of tax policy measures be employed, such as more generous welfare and income support payments, deferral or waiver of employer and self-employed social security contributions, tax concessions for those working in health and emergency services, deferral of VAT and custom duties payments, expediting the payment of refunds, deferring or waiving taxes, or increasing loss carry-forward provisions.

A global reference document setting out the measures taken by tax administrations worldwide has been created by the Forum on Tax Administration, containing detail of all taxation and financial measures taken by governments around the world in response to the COVID-19 outbreak. The document is updated on a regular basis and has been created in order to assist tax administrations in developing their own national tax measures responding to the COVID-19 crisis. The OECD also created an online Toolkit containing the details of taxation and financial measures taken by governments around the world in response to the COVID-19 outbreak.

The OECD also published guidance analysing tax treaty implications concerning certain tax issues raised by circumstances surrounding the COVID-19 outbreak. The guidance examines issues such as potential creation of a permanent establishment or change in the place of effective management on the basis of a cross-border employee carrying out duties remotely, as well as other issues concerning cross-border workers and changes in the residence status of workers. Following on from the guidance being issued, many countries concluded agreements concerning the taxation of cross-border workers during the COVID-19 outbreak period. Countries have generally agreed that days worked at home due to COVID-measures would count as days worked in the contracting state. Some agreements deal with more specific cases versus a general agreement.

Digital Tax Developments

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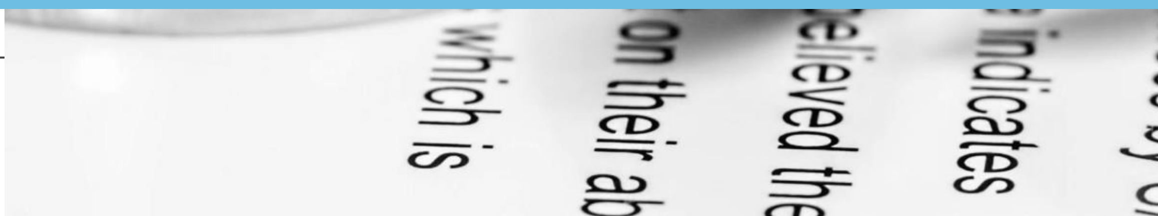

Digital Tax: US Withdraws from the Table, EU Promises to Move Ahead Regardless

(Don't Hold Your Breath Until October, Though…)

On 31 January, the OECD Inclusive Framework published a Statement and held a Tax Talks Webcast concerning progress on its two-pillar approach to address the taxation challenges of the digital economy. In the statement, the Inclusive Framework reaffirmed its commitment to reach a solution by the end of 2020, endorsing and agreeing the outline of the Unified Approach under Pillar 1 to create new taxing rights for market jurisdictions as the basis for future negotiations, and acknowledging progress made to date in respect of Pillar 2. The Inclusive Framework noted there was a divergence of views within the group concerning binding dispute resolution, whether to weight quantum created by new taxing rights to account for different degrees of digitalisation in Member States and whether to allow for regional factors when calculating amounts under the new taxing rights.

As concerns scope of the Proposals, the Statement set out that new taxing rights created under the present Pillar 1 proposal were intended to apply to companies providing automated digital services, such as search engines, social media platforms, streaming services, online marketplaces, online gaming, cloud computer and online advertising, as well as to consumer facing businesses generating revenue from sales of goods and services, including third-party resellers, intermediate suppliers and businesses generating revenue from licensing rights.

The US proposition to make Pillar One optional by allowing companies to 'opt out' of the newly proposed profit allocation rules continued to create tensions among governments and "will not fly politically", said OECD Tax Director Pascal Saint- Amans. The Framework in its January statement set out that a decision on whether or not Pillar One could operate as a safe harbour would only be made once the technical aspects of the proposal were agreed.

In a webcast streamed in February, the OECD released details of an economic analysis and impact assessment concerning the Pillar 1 and Pillar 2 proposals, with preliminary findings indicating that the combined effect of the Pillar 1 and 2 proposals would lead to an increase of around 4% in global corporate income taxation revenue for both low, middle and high-income economies.

In June, US Trade Representative Robert E. Lighthizer confirmed that the US was withdrawing from OECD Inclusive Framework discussions on taxation of the digital economy and the Office of the US Trade Representative announced the US will be carrying out investigations under Section 301 of its 1974 Trade Act concerning digital services taxes that have either been adopted or are being considered at political level by a number of countries worldwide. The jurisdictions listed included: Austria, Brazil, the Czech Republic, the European Union, India, Indonesia, Italy, Spain, Turkey, and the United Kingdom.

The OECD published a public statement in response to the developments, with OECD's Secretary-General, Angel Gurría, stating *"All members of the Inclusive Framework should remain engaged in the negotiation towards the goal of reaching a global solution by year end…Absent a multilateral solution, more countries will take unilateral measures and those that have them already may no longer continue to hold them back. This, in turn, would trigger tax disputes and, inevitably, heightened trade tensions. A trade war, especially at this point in time, where the world economy is going through a historical downturn, would hurt the economy, jobs and confidence even further. A multilateral solution based on the work of the 137 members of the Inclusive Framework at the OECD is clearly the best way forward."*

EU Commissioner for the Economy, Paolo Gentiloni, responded to the decision stating "*We need a digital tax adapted to the reality of the new century. An agreement is needed in the global negotiations. If the American withdrawal makes it impossible, the EU Commission will put a new European proposal on the table"*. A failure to agree an agreement at international level, will very likely lead to a raft of further unilateral digital taxes being introduced, and retaliatory tariffs, escalating to trade wars.

A virtual meeting of the Inclusive Framework took place in July to discuss progress made by the working groups. It is expected that details of the key policy features will be agreed and made public in October and a report produced for the G20 by the end of the year on the final solution agreed on by the Inclusive Framework. The July G20 Report to finance ministers from the G20 countries sets out that progress has been made on developing technical and policy solutions to the working blocks for agreeing tax allocations rights under Pillar 1, notwithstanding the political uncertainty surrounding agreeing a solution for taxation of the digital economy. Additionally, the report details that some countries are of the view that an agreement on global minimum effective taxation under Pillar 2 could already be reached and implemented independently of Pillar 1. The report indicates that efforts will be focused on resolving the divergent views in the coming months, and that *"the technical development should be advanced enough to allow key political decisions to be taken on both pillars in October 2020"*.

However, Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration, in his presentation during a Tax Talks Webcast in late July, stated that although blueprints will be presented to the Inclusive Framework at its Plenary Meeting in October 2020, interested parties needed to be "realistic", saying that *"As much as we welcome the G20 telling us that they hope to have an agreement by year-end, and they aim to have an agreement by year-end, we have to recognize there are a number of pending issues, including how broadly Pillar One will apply."*

Once the blueprints are published in October, a consultation inviting stakeholders to comment on the blueprints will take place.

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Optional "DAC6" Deferral in Wake of the COVID-19 Crisis

Due to the extraordinary consequences of the COVID-19 outbreak, public requests were made by financial and professional association organisations seeking leniency in the enforcement of penalties and deadlines contained within the EU Directive on Administrative Cooperation.

The European Commission thereafter published proposals to extend the deadlines contained in the EU Directive on Administrative Cooperation, as well as the entry into force of the VAT E-commerce package. After negotiations, the Directive as agreed at Council level provides the option for Members States to postpone deadlines imposed by the EU Directive on Administrative Cooperation for reporting of relevant cross-border arrangements by 6 months. The Directive also provides that the Council can agree to extend the deadlines in the Directive by a further 3 months, if required by the circumstances surrounding the coronavirus.

The Directive provides the option for Member States to defer deadlines arising out of the Directive as follows:

- Defer time limit for exchange of information on Reportable Financial Accounts from 30/09/2020 to 31/12/20 (note: DAC2 – CRS)
- Defer date for 1st exchange of DAC6 information from 31/10/20 to 30/04/21
- Defer date for beginning of 30 days period for reporting cross-border arrangements from 01/07/20 to 01/01/21
- Defer date for reporting 'historical' arrangements (that became reportable from 25/06/18 to 30/06/20) from 31/08/20 to 28/02/21

CFE Tax Advisers Europe in its Opinion Statement on the issue highlighted that many intermediaries and taxpayers would face exceptional challenges and business pressures in seeking to fulfil the obligations arising out of the Directive, and Member states' tax administrations similarly hampered to issue guidance specifying the practical application of the rules. CFE urged a positive intervention by the Council of the EU and the European Commission to mitigate the challenges faced by intermediaries in such circumstances, to allow leniency for Member States to delay the enforcement of penalties related to compliance with national DAC6 implementing legislation.

EU Commission Unveils New Anti-Money Laundering Plan

In the first half of 2020, the European Commission adopted an Action Plan and Roadmap for a comprehensive EU policy on preventing money laundering and terrorist financing. The plan is comprised of 6 pillars, which the Commission aims to deliver on by 2021. The pillars are:

1. Effective implementation of existing rules;
2. A single EU rulebook;
3. EU-level supervision;
4. A support and cooperation mechanism for financial intelligence units;
5. Better use of information to enforce criminal law;
6. A stronger EU in the world.

The Action Plan aims to build on deficiencies identified in the package adopted by the Commission in July 2019 concerning the implementation of the EU anti-money laundering framework, which stressed the need for increased harmonisation at EU level and EU mechanisms to strengthen the framework.

Alongside the Action Plan, the Commission also published a Revised Methodology for identifying high risk third-countries with deficiencies in their money-laundering and counter terrorist financing regimes. It aims to improve transparency in the process by *" (i) the interaction between the EU and FATF listing process; (ii) an enhanced engagement with third countries; and (iii) reinforced consultation of Member States experts."*

In addition, the Commission has published an updated List of High-Risk Third Countries, by way of Delegated Regulation, in line with its revised methodology. The list has been submitted to the European Parliament and Council for approval, which ordinarily should occur within one month.

The Roadmap sets out that a policy communication will be issued in the coming months setting out the areas where further EU action will be taken, which will form the basis of future proposals of the Commission. Extensive consultation with stakeholders will also take place in 2020, with a view to present new policy initiatives in early 2021. It is anticipated the Commission will introduce an EU Regulation to further plans under its Roadmap concerning future steps in its "new comprehensive approach to preventing and combating money laundering and terrorism financing". Introducing an EU Regulation would arguably assist in a more streamlined approach across the EU to money-laundering prevention.

A consultation concerning the Action Plan will run until the end of August on the Have Your Say webpage.

More on the External Tax Dimension: EU Blacklist

The EU has revised its blacklist of jurisdictions considered non-cooperative for tax purposes. At February's ECOFIN Council meeting, ministers agreed to add Cayman Islands, Palau, Panama and Seychelles to the EU's blacklist. 16 jurisdictions (Antigua and Barbuda, Armenia, Bahamas, Barbados, Belize, Bermuda, British Virgin Islands, Cabo Verde, Cook Islands, Curaçao, Marshall Islands, Montenegro, Nauru, Niue, Saint Kitts and Nevis, and Vietnam) reportedly implemented the required reforms to comply with EU's tax good governance criteria and were removed from Annex II.

Commenting on behalf of the EU Presidency, Croatia's Finance Minister Zdravko Marić said of the developments: "*The work on the list of non-cooperative tax jurisdictions is based on a thorough process of assessment, monitoring and dialogue with about 70 third country jurisdictions. Since we started this exercise, 49 countries have implemented the necessary tax reforms to comply with the EU's criteria. This is an undeniable success. But it is also work in progress and a dynamic process where our methodology and criteria are constantly reviewed.*"

To that end, as discussed earlier in this Policy Report, the Commission's July Tax Package included a Communication which set out means to improve the EU's role in promoting tax good governance and tax transparency by reforming the Code of Conduct on Business Taxation and making improvements to strengthen the EU's List of Non-Cooperative Jurisdictions for Tax Purposes. The Commission aims to update the scoreboard used to select the jurisdictions that are screened by the Code of Conduct Group, and to review the criteria that jurisdictions must comply with, to update these to take into account developments in tax evasion practices. Additionally, the Commission aims to expand the mandate of the Code of Conduct Group to examine conditions leading to unfair tax competition and aggressive tax planning within the European Union, such as tax residency rules allowing for double non-taxation, tax exemptions without appropriate safeguards and special citizenship schemes. It also plans to introduce the parameter of minimum effective taxation.

EU Parliament Permanent Tax Subcommittee Established

At a Plenary Session which took place on 18 June, the European Parliament voted to establish a permanent tax subcommittee to the Committee on Economic and Monetary Affairs. The subcommittee will be comprised of 30 members, and will be responsible for investigating issues surrounding *“tax-related matters, and particularly the fight against tax fraud, tax evasion and tax avoidance, as well as financial transparency for taxation purposes”.*

The move to create a permanent tax subcommittee had been anticipated following on from several temporary inquiries into specific tax scandals being established in the past. The most recent committee, the TAX3 Committee, tasked with investigating financial crimes, tax evasion and tax avoidance, noted in its report adopted by the European Parliament in March 2019 that there was a lack of political will in EU Member states to address tax evasion, tax avoidance and financial crime. The TAX3 Committee recommended the Commission and Council adopt a comprehensive definition of aggressive tax planning, commence work immediately on establishing European financial police force, an EU financial intelligence unit, and an EU anti-money laundering supranational watchdog.

The EU Council also adopted conclusions on 17 June concerning the enhancement of investigations into organised crime, calling for further cooperation on the exchange of financial information, the work of Financial Intelligence Units to be adapted, the legal framework for virtual assets to be improved and for Member States to consider the imposition of harmonised cash payment limits.

EU Green Taxes: Energy Taxation Directive & Carbon Border Adjustment Consultations

The EU Commission published two inception impact assessments on the Energy Taxation Directive and Carbon Border Adjustment Mechanism as part of its work to progress the EU Green Deal.

As concerns the Energy Taxation Directive, the inception impact assessment sets out that a legislative proposal is planned for June 2021, which will aim to align the *"taxation of energy products and electricity with EU energy and climate policies"* and to update *"the scope and structure of rates as well as …use of optional tax exemptions and reductions by Member States".* An impact assessment concerning the proposal is being prepared, and an online public consultation concerning changes to the Directive has recently been launched. The consultation background sets out that since the adoption of the Energy Taxation Directive in 2003 energy markets and technologies have experienced significant developments and the EU's international commitments have evolved considerably. It discusses an evaluation published in September 2019, that: "The wide range of exemptions and reductions de facto, favours the consumption of fossil fuel, the Directive does not adequately promote greenhouse gas emission reductions, energy efficiency, or alternative fuels (hydrogen, synthetic fuels, e-fuels, advanced biofuels, electricity, etc. and the ETD does not achieve anymore its primary objective in relation to the proper functioning of the internal market. Input can be provided to the public consultation until 14 October 2020.

A public consultation has also been recently launched concerning the Carbon Border Adjustment Mechanism, which will aim to prevent carbon leakage caused by offshore production and carbon intensive imports, to ensure import prices reflect their carbon footprint, in order to achieve EU climate goals. In addition, technical consultations with specialised stakeholders and an impact assessment will be carried out by the Commission. The consultation will run until 28 October and input can be provided via the European Commission's Have Your Say webpage.

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Simplification for SMEs

In February, the Council of the European Union (ECOFIN) adopted two proposals concerning simplification of VAT rules for small business and prevention of tax fraud in cross-border e-commerce. Under these measures amending Directive 2006/112/EC, small companies will be able to qualify for simplified VAT compliance rules, where their annual turnover remains below a threshold set by a Member State (lower than €85,000). Subject to certain conditions, small businesses from other EU Member States, which do not exceed this threshold, will also be able to benefit from the simplified scheme if their annual EU turnover does not exceed €100,000.

The second set of rules aims to facilitate detection of tax fraud in cross-border e-commerce transactions and harmonised collection by Member States of records made available electronically by payment service providers. In addition, a new central electronic system will be set up for the storage of the payment information and for the further processing of this information by national tax authorities. The new measures will apply as of 1 January 2024.

Customs Union Roadmap

In March, the European Commission published a Roadmap in March concerning its Action Plan for Taking the Customs Union to the Next Level. The Commission aims to further *"IT implementation and optimisation, customs risk analysis and management, integration of operations and cooperation between customs authorities, harnessing innovation and improving efficiency of customs administrations"*. A forthcoming Communication will set out the Commission's strategy as concerns an EU-approach to risk management and supporting EU-custom administration controls.

The action stems from concerns raised by the European Court of Auditors, as well as the European Parliament, that the effectiveness of customs controls is lacking across the EU's external borders, leading to a loss of Traditional Own Resources and significant financial implications, most notably for VAT. The Commission will soon publish a Communication to its co-legislators in the Parliament, Council and the Economic and Social Committee, alongside a public consultation.

E-Commerce Directive Implementation Delayed Due to Coronavirus

Due to the extraordinary consequences of the COVID-19 outbreak, in May the European Commission proposed to delay the entry into force of the VAT E-commerce package. On 24 June, European Member state representatives agreed to the postponement of the EU VAT e-commerce package until 1 July 2021.The adopted Directive only concerns the date of application of the already adopted legal framework of the VAT e-commerce package set out in the VAT Directive. The date of application shall be postponed by six months. This means that the rules shall be applied as of 1 July 2021 instead of 1 January 2021. Consequently, Member States are able to publish their transposition measures by 30 June 2021 instead of 31 December 2020.

TOMS Scheme Consultation

The EU Commission has launched a consultation on the VAT scheme for travel agents and tour operators, which was introduced in order to simplify the application of EU VAT rules for tour operators and travel agents.

The consultation aims to evaluate the effectiveness, relevance and coherence of the current special scheme, and whether it is fit for purpose in a digitalised economy, as well as its overall coherence with normal EU VAT rules. The consultation can be accessed at the Have Your Say webpage. Input can be provided until 14 September.

Brexit Tariff & VAT Implication Notifications

The UK's revenue authority, HM Revenue & Customs, has published details of the UK tariff, or so-called UK Global Tariff, which will apply on the importation of goods into the UK from 1 January 2021. The UK Global Tariff will replace the EU Common External Tariff. The new Global Tariff will apply to all imported goods, except where: there is a trade agreement between the UK and country from which the goods are being imported, an exemption or some sort of relief applies, or the goods come from a country which forms part of the Generalised Scheme of Preferences. The Global Tariff does not include VAT or any other import duties that may be payable, nor does it take into account anti-dumping or other sorts of restrictions that may apply.

The European Commission has published an updated Notice to Stakeholders concerning the EU rules applicable to services in light of the UK withdrawal from the EU. The Notice confirms that during the transition period the UK continues to be subject to the EU VAT Directive in respect of transactions for services made during this period. Thereafter, the Notice sets out that for supplies of services, suppliers from the UK will need to register under the mini-one-stop-shop as a supplier in the relevant Member States. Additionally, requests for cross-border VAT refunds between the UK and Member States will be subject to the 13th VAT Directive following the transition period.

International Tax Policy Updates

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Country by Country Reporting Guidance

As a follow-up to BEPS Action 13, the OECD/G20 Inclusive Framework on BEPS has released additional interpretative guidance on the implementation and operation of Country-by-Country Reporting (CbCR). The new guidance is intended to provide improved tax certainty for tax administrations and MNEs, and addresses automatic exchange concerning local filings of Country-by-Country reports.

OECD also published a consultation document and comments received to the consultation concerning Action 13 of the Base Erosion and Profit Shifting Project, on Country-by-Country Reporting. The review is being carried out pursuant to the BEPS Action Plan, which mandated a review of CbCR under Action 13 in 2020.

The consultation document invites input on whether modifications should be implemented for Action 13 such that additional or different data should be reported, requesting practical experiences and issues with reporting requirements under Action 13, input on the use of the reported data by tax administrations, and on the effectiveness and appropriateness of thresholds and reporting.

Sharing & Gig Economy Guidance

The OECD has published Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy.

The Rules were developed as part of a wider OECD strategy to address tax challenges surrounding the digital economy, with the objective of tax administrations worldwide adopting a uniform set of rules concerning the reporting requirements for transactions and income of platform sellers. The Model Rules were developed to increase transparency and minimise compliance burdens for tax administrations and taxpayers, in properly recording and taxing activities carried out on digital platforms which may have been previous carried out via the informal cash economy.

Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration, stated *"The approval of the MRDP by the G20/OECD Inclusive Framework on BEPS proves that multilateral solutions to address tax challenges in the digital economy are possible and that they are to the benefit of tax administrations, taxpayers and businesses alike".*

The OECD will now progress the international legal framework to facilitate the automatic exchange of the information collected under the Model Rules.

United National Committee of Experts on Tax Matters

The UN Committee of Experts on International Cooperation on Tax Matters held it 20th Session meetings virtually between 22 and 26 June 2020.

The session addressed progress on updating the Model Double Taxation Convention and Transfer Pricing Manual, as well as on new guides being developed on tax dispute avoidance and resolution and environmental taxation. Issues related to the digitalisation of the economy and sustainable development goals were also discussed at the Session. The 21st Session will be held virtually from 20 October to 6 November 2020.

Platform for Collaboration on Tax

The Platform for Collaboration on Tax, a joint initiative of the International Monetary Fund, the Organisation for Economic Co-operation & Development, the United Nations and the World Bank Group, have now launched a website which aims to disseminate information to assist developing countries to strengthen tax systems and mobilise domestic revenue.

The website contains toolkits, guidance, reports, relevant tax news as well as an extensive database concerning resource mobilisation activities and projects of partners of the Platform for Collaboration on Tax.

The website aims to assist with achieving the Sustainable Development Goals by 2030 and the Addis Ababa Action Agenda.

Additionally, the Platform for Collaboration on Tax has issued a draft toolkit on tax treaty negotiations for developing countries in order to further capacity-building support. Input on the toolkit can be submitted until 10 September 2020.

The Toolkit builds on the UN's Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries and built specifically on the guidance on conducting tax treaty negotiations. The Toolkit seeks input in particular concerning whether all relevant technical and practical considerations and capacity building skills for developing countries in treaty negotiations have been covered by the draft Toolkit, and input on any resources and tools that should be included in the toolkit.

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