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1. OECD Publishes Submissions on Taxation Challenges of the Digital Economy

Ahead of the public consultation meeting to be held this week in Paris, on 13 and 14 March, as part of the meeting of the Task Force on the Digital Economy, the OECD has published the submissions received in response to the public consultation concerning potential solutions to issues surrounding taxation of the digital economy.

The public consultation meeting with the OECD's Task Force on the Digital Economy which will take place in Paris will also be broadcast live on the OECD website, and can be watched on replay. Those interested in watching the consultation can do so here.

The consultation was launched following publication of a Policy Note identifying that discussions at OECD level will be based around two pillars. The first pillar will focus on how the existing rules that divide the right to tax the income of multinational enterprises among jurisdictions could be modified to take into account the changes that digitalisation has brought to the world economy. The second pillar aims to resolve remaining BEPS issues and will explore two sets of interlocking rules designed to give jurisdictions a remedy in cases where income is subject to no or only very low taxation. CFE's submissions concerning the consultation can be viewed on our website.

2. Commission Releases March Infringement Package

The European Commission has published its March infringement package setting out the legal action being pursued against various Member States by the Commission for non-compliance with obligations under EU law. The Commission sent letters of formal notice to Finland, Hungry and Spain concerning non-compliance, and a reasoned opinion to Germany in relation to tax matters.

The Commission sent a letter of formal notice to Spain, requesting it bring into line capital gains deductions rules as concerns taxpayers in Norway, Iceland and Liechtenstein, such that tax residents in those countries are also afforded the freedom of movement of capital provided for in the EEA Agreement. Similarly, Spain was also requested to amend legislation which provides a tax deduction for residents on income derived from the letting of dwellings, on the basis this is contrary to the fundamental freedom of movement of capital.

Finland has been requested to amend legislation providing deductions for group contributions between affiliated domestic companies, as it does not allow for deductions to be made by groups with affiliated companies in other EU or EEA States, contrary to the freedom of establishment.

Hungary was also issued with a letter of formal notice concerning its legislation on duties on property acquisition for foundations, which currently exempts inheritance, gifts and quid pro quo as concerns domestic foundations. The Commission argues this is contrary to the free movement of capital.

Finally, Germany was issued with a reasoned opinion setting out the Commission's view that denying a certain housing premium to cross-border workers is contrary to the freedom of movement of workers and the freedom of establishment and that that legislation needs to be amended.

3. IMF Reviews Corporate Taxation of the Global Economy

The International Monetary Fund (IMF) has published a policy paper evaluating the current state of international corporate tax reform and setting out the ambition to build on the recent progress in international cooperation on tax matters. The paper, discussed by the IMF Executive Board on 21 February 2019, takes stock of the international progress to date, providing a high-level overview of the key economic considerations and implications of various reform proposals. The IMF is not a standard setting body in the area of international tax, and as such continues to support the work undertaken by the OECD. Whilst accepting that the current international tax governance arrangements are broadly appropriate, the Board of IMF suggested that the Platform for Collaboration on Tax (bringing together the IMF, OECD, UN and World Bank) could have a more meaningful future role in supporting international tax coordination.

The IMF Board of Directors welcomed the considerable progress made at OECD level in addressing the BEPS issues by expanding the scope of cooperation to include non-OECD countries via the Inclusive Framework. In respect of the current debate to address the tax challenges of the digitalising economy, the IMF recognised the complexity of the process from a political and technical perspective, noting that views on the matter continue to differ significantly among countries. Hence, the IMF paper refrained from endorsing any of the proposals for tax reform arising from the OECD debate. Instead, the paper focuses on the residual BEPS issues, in particular profit shifting and harmful tax competition, which is of critical concern for the ability of emerging and developing countries to secure their tax bases on inward investment.

4. ECOFIN to Discuss Blacklist, Excise Duties & Digital Tax Developments

At its meeting on 12 March, the Economic and Social Affairs Council will discuss the List of Non-Cooperative Jurisdictions for Tax Purposes, excise duties, digital services tax and the Commission's Winter Package.

The Council is expected to reach political agreement on the harmonisation of excise duties on alcohol and alcoholic beverages. Ministers will also reportedly debate developments concerning the proposed EU digital services tax, and discuss other developments taking place internationally concerning the issue, such as the OECD consultation. Additionally, ministers will exchange views concerning the recommendations contained in the Commission's Winter Package for each Member State. Finally, the Council will also review the jurisdictions currently included on EU list of non-cooperative jurisdictions for tax purposes and is expected to adopt new conclusions on the matter.

Ahead of the ECOFIN meeting, Member States have also now unanimously rejected the Commission's Delegated Regulation identifying a list of high-risk third countries with deficiencies in their anti-money laundering and counter terrorist financing regimes. The Commission will now need to prepare a revised list addressing the concerns raised by Member States in their rejection of the first proposal.

5.

Commission Opens Investigation into Interest-Free Loans

The EU Commission has opened an in-depth investigation into whether tax rulings granted by Luxembourg to food and drink packaging company Huhtamäki may have given it an unfair advantage over competitors.

Huhtamäki has its headquarters in Finland, but operates a group structure. The Commission will investigate three tax rulings of the Luxembourg government to the Luxembourg-based entity of the company, Huhtalux. One of these rulings was disclosed as part of the Luxleaks investigation.

The rulings approved the tax treatment of intra-group financing structures in place, whereby Huhtalux received interest-free loans from a company in the group, then used to finance other companies in the group through interest-bearing loans. The rulings allowed the Luxembourg company to deduct the interest payments from the interest-free loans, interest which was not actually paid, and reduce the company's tax base. The Commission believes the ruling approving this deduction has resulted in a selective advantage being conferred on the group as compared with stand-alone companies.

Competition Commissioner, Margrethe Vestager, said of the investigation: "*Member States should not allow companies to set up arrangements that unduly reduce their taxable profits and give them an unfair advantage over their competitors. The Commission will carefully investigate Huhtamäki's tax treatment in Luxembourg to assess whether it is in line with EU State aid rules.*"

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