

# CFE's Tax Top 5

## KEY TAX NEWS OF THE WEEK

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### CFE Forum 2019 – Final Programme Published

The CFE Tax Advisers Europe has published the [final programme](#) for the Forum 2019 on 6 June 2019, in Brussels this year entitled “Creating Tax Certainty in an Uncertain World: Double Taxation, Tax Rulings & Dispute Resolution Processes”. The Forum will examine existing MAP mechanisms and the EU Tax Dispute Resolution Mechanisms Directive. The Forum will further discuss means of avoiding tax disputes, such as indirect and cross-border rulings, as well as the State Aid challenges to direct tax rulings- confirmatory rulings and advance pricing agreements (APAs). More details about the registration process can be found [here](#).



### The Netherlands and Germany Agree to Cooperate on Global Minimum Tax

The Dutch Government supports the global efforts to introduce further measures to address the residual BEPS issues by ensuring a minimum level of taxation globally. Speaking in Berlin following a meeting with the German Finance Minister Scholz, the Dutch Secretary of State for Finance Snel stated that the Netherlands is ready to raise the issue jointly with Germany at international fora.

In spite of the optimistic statement, a subsequent press-release ([Dutch](#) and [English](#)) by the Dutch Ministry of Finance clarified that the Netherlands recognises the necessity of introducing further measures to combat BEPS, including the OECD global base eroding tax discussions, subject to the proposals addressing the issue of double taxation and other unintended administrative compliance issues. The Dutch government also highlighted that although Germany, France and the Netherlands agreed a principled position that ensuring minimum taxation is an important means to addressing the remaining BEPS risks, there might be different pathways on the way forward.

Practically, the Dutch government committed to introducing a conditional withholding tax on payments to low tax jurisdictions. As of 2021, companies established in countries with corporation tax of less than 9%, or countries on the EU ‘blacklist’ of non-cooperative jurisdictions for tax purposes, will be subject to a Dutch withholding tax of 20,5% on interest and royalties.

In a statement published as part of the OECD consultation process, CFE warned that the pillar two proposals are likely to continue to put pressure on the existing transfer-pricing framework: any disparity in the implementation of minimum tax rate proposals is inevitably going to lead to double taxation, in instances where countries fail to take into account tax already paid under such regimes (under CFC rules or under the GILTI regime in the US). Further, the outcomes of a global minimum tax rate will differ significantly depending on

the technical solution: jurisdiction-by-jurisdiction approach vs. an average rate approach (like GILTI). The complexities in designing a minimum tax rate in a global context will be technically challenging and, as such, will require efforts by the OECD and the Inclusive Framework jurisdictions to ensure close international coordination, CFE's [statement](#) concludes.



## Tax Administrations Agree Global Action on Delivering Tax Certainty

The OECD's Forum on Tax Administration (FTA) [met in Chile](#) on 26-28 March and agreed an ambitious agenda focused on tax certainty, enhanced tax co-operation and the collective challenges of digital transformation. This year's plenary session focused on delivering on BEPS and tax certainty, improving tax co-operation, supporting the continued digitalisation of tax administrations and building capacity for developing countries.

Significantly, the OECD FTA recognised that a successful delivery on the wider tax certainty agenda is conditional upon a comprehensive and interlinked agenda focused on dispute resolution and prevention. To that end, the OECD continues to prioritise implementation of the OECD/G20 international tax agenda, with notable progress in the implementation of Country-by-Country reporting (CbC), the Mutual Agreement Procedure (MAP) and the exchange of rulings.

Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration, said of the developments: *"There is a huge international agenda to ensure fair and effective taxation of multinationals and individuals operating across borders, while delivering enhanced tax certainty to promote growth and investment. Tax administrations sit at the heart of this. The Plenary demonstrated the FTA's resolve to take concrete actions to support the international agenda and to deliver on the high public expectations."*



## The European Union Wins US Boeing Tax Incentives Case

On 28 March, the Appellate Body of the World Trade Organisation (WTO) [rendered a ruling](#) in the long running dispute between the EU and the US over the alleged tax incentives to Boeing. The ruling confirms that the United States has failed to remove the trade-distorting subsidies granted to the aircraft manufacturer and dismissed all of the US appeal points.

Commenting the EU Trade Commissioner Cecilia Malmström said: *"Today's ruling is a welcome one for the EU, its aircraft-producing industry and workers across EU Member States in this strategic sector. The Appellate Body has now settled this case definitively, confirming our view the US has continued to subsidise Boeing despite WTO rulings to the contrary. We will continue to defend a level-playing field for our industry. European companies must be able to compete on fair and equal terms and today's ruling is important in this respect."*



## ITI Global Tax Policy Conference is Association with the Harvard Kennedy School

The Irish Tax Institute (ITI), a member organisation of CFE Tax Advisers Europe, organises a global tax policy conference with distinguished speakers from the EU and the OECD, practice, business and academia. The conference is an excellent opportunity to listen to and

engage with international colleagues who are at the frontier of global tax policy. Insightful commentary and open discussions will provide you with the latest news on the future of tax, both in Ireland and internationally. To view the programme and register please visit the [ITI website](#).



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