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1. ATAD Provisions Apply From 1 January 2019

The provisions of the EU Anti-Tax Avoidance Directive (ATAD) became applicable on 1 January 2019, which was the implementation deadline for national transposition legislation. The Directive contains five legally binding anti-abuse measures, which all Member States should apply against common forms of aggressive tax planning. The anti-abuse measures, apart from hybrid mismatches, include: CFC rules, switchover rule, exit tax rules, GAAR and interest limitation rules.

Article 4 ATAD requires from EU Member States to introduce interest limitation rules before 1 January 2019. According to Article 11(6) ATAD, Member States which have existing national rules for preventing BEPS risks at 8 August 2016, which are equally effective to the interest limitation rule set out in the ATAD, may apply these targeted rules until 1 January 2024, in line with the OECD minimum standard regarding BEPS Action 4.

On 7 December 2018, the European Commission published in Official Journal a Notice on national interest limitation measures considered equally effective to Article 4 of the Anti-Tax Avoidance Directive. The measures include: *Spain* — Articles 16 and 63 of 'Ley 27/2014, Del Impuesto Sobre Sociedades (territorio comun)' and Article 24 of 'Ley Foral 26/2016, Del Impuesto Sobre Sociedades (Navarra); *France* — Article 212 bis of 'Code général des impôts ("rabot")'; *Slovakia* — Section 21a of Act No 595/2003 Coll; *Slovenia* — Article 32 of 'Zakon o davku od dohodkov pravnih oseb' (ZDDPO-2); and, *Greece* — Article 49 of Law 4172/2013.

2. EU DAC Implementation Report Published

The European Commission published the first report on the implementation of the Directive on Administrative Cooperation ("DAC"). The report highlights EU's improved tax transparency record due to the DAC implementation and the automatic exchange of information ("AEOI"). Notably, only in 2017 Member states have exchanged information on almost 9 million financial accounts with a total balance of nearly €3 trillion. The report also indicates that Member states were able to use such data to increase their tax base due to awareness of potentially taxable foreign income and capital of their tax residents.

By way of conclusions, the report identifies that tax authorities mainly use the AEOI for risk assessment and personal income tax assessment. However, several Member States still make very limited use of the information they receive. The main benefits of AEOI lie in the increased tax compliance and in the deterrent effect for taxpayers. Member States often send information that does not include all necessary identification elements, which would permit an automated matching of this information with the one available nationally. As a way forward, two areas of improvement were identified: enhanced quality of information and better use of data received via AEOI. Such support mechanisms already exist within the FISCALIS programme of the European Union.

EU 2018 Tax Policy Survey

The "Tax Policies in the EU survey" for 2018 was published by the European Commission on 19 December. The report found that the European Union continues to make progress towards a sustainable recovery, with a return to robust economic growth and employment rates reaching record highs in some Member States.

Further, the report highlights that the headline corporate income tax rates continue their downward trend in 2018, but fewer measures are taken to compensate those cuts by tax base broadening measures. After years of major changes, only few reforms in personal income taxation took place in 2018. Similarly, changes to consumption taxes were generally minor.

New elements of this year's edition include a summary of important business taxation reforms in third countries, an analysis on taxation as an environmental policy instrument, a focus on the implications of new forms of work for labour taxation, an analysis of the influence of the overall tax mix on progressivity, and an overview of recent EU tax initiatives. The annual survey examines how Member States' tax systems help to promote investment and employment, how they are working to reduce tax fraud, evasion and avoidance, and how tax systems help to address income inequalities and ensure social fairness.

EU Commission: Gibraltar Tax Rules Contrary to State Aid Law

European Commission investigation has concluded that Gibraltar's corporate tax exemption regime for interest and royalties, as well as five individual tax rulings, provide selective tax advantage and are therefore illegal under EU State aid rules. The beneficiaries have to repay back taxes of around €100 million. The EU Commission stated that during the investigation, Gibraltar amended its tax rules to enhance its tax ruling procedure. Further, Gibraltar reinforced its transfer pricing rules, enhanced taxpayers' obligations and improved transparency on how it implements its territorial taxation system. These amendments entered into force in October 2018.

Gibraltar is part of the United Kingdom, but follows separate tax rules. The EU State aid rules continue to apply to the UK until it has left the EU. After 29 March the application of EU State aid rules in the UK will be regulated by the Withdrawal Agreement, subject to ratification by the EU and the UK.

CFE Annual Report 2018

At the end of last year, CFE Tax Advisers Europe, in cooperation with IBFD, published the Annual Report for 2018. We invite you to read the publication if you did not have the opportunity to do so during the holidays. A very happy New Year from all of us at CFE!