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1. Commission Expands Temporary State Aid Framework

The European Commission has expanded the Temporary State Aid Framework adopted in March to assist Member States in dealing with the economic impact of the COVID-19 outbreak. To minimise the economic impact of the COVID-19 outbreak, the Framework allows Member States to provide aid by: providing grants, selective tax advantages, and advance payments of up to 800,000 Euro; 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.

The Commission has now expanded the Framework to include criteria for Member States to apply when providing recapitalisation and subordinated debt to companies, to protect the EU level playing field.

Concerning the expanded Framework, Executive Vice-President Margrethe Vestager stated *"if Member States decide to step in, we will apply today's rules to ensure that taxpayers are sufficiently remunerated and their support comes with strings attached, including a ban on dividends, bonus payments as well as further measures to limit distortions of competition. And for public transparency, large companies also have to report on the use of aid received and compliance with their responsibilities linked to the green and digital transitions. Because we have to uphold European values and the need for a level playing field to be able to bounce back strongly from this crisis."*

Full details concerning the measures can be found here.

2. OECD Hosts BEPS Action 13 Consultation Webinar

A digital public consultation was held on 12 – 13 May by the OECD concerning the 2020 review of BEPS Action 13 Country-by-Country reporting, focusing on improvements to the minimum standard for high level transfer pricing risk assessment, BEPS-related risks, and analysis of various aspects concerning the reporting standards.

The public consultation was recorded and can be replayed via the OECD's website.

EU Commission Publish Infringement Package

The European Commission has published its May infringement package setting out the legal action being pursued against various Member States by the Commission for non-compliance with obligations under EU law.

Letters of formal notice were sent to eight Member States, namely Belgium, the Czech Republic, Estonia, Ireland, Greece, Luxembourg, Austria and Poland, as well as the UK, for failing to fully implement the 5th Anti-Money Laundering Directive. The countries will have two months to notify the Commission that the Directive has been implemented, or will thereafter be issued with reasoned decisions.

Luxembourg and Portugal were issued with letters of formal notice for incorrectly transposing the interest limitation rule in the Anti-Tax Avoidance Directive. Additionally, Romania was issued with a reasoned opinion concerning the failure to have in place proper IT systems for the monitoring of the circulation of excise goods of alcohol, tobacco and energy products within the EU.

The Commission has also referred the Netherlands to the Court of Justice for breaching the fundamental EU freedoms by its imposition of taxation on the transfer of pension capital to other Member States, which is not imposed on domestic transfers of pension capital.

Further details of the full infringement package can be found here.

Countries Agree on COVID-19 Taxation of Cross-Border Workers

In recent weeks, various countries have agreed on the taxation of cross-border workers during the COVID-19 outbreak period. This follows after OECD guidance was published analysing tax treaty implications concerning certain tax issues raised by the circumstances surrounding the COVID-19 outbreak, 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.

Agreements have been concluded between Belgium and the Netherlands, the Netherlands and Germany and Germany and Belgium, with countries generally agreeing 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. Further agreements are expected to be concluded in the coming weeks.

Czech Republic & Korea Ratify OECD MLI

Czech Republic & Korea have both deposited instruments of ratification to the OECD's Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.

The multilateral tax treaty allows jurisdictions to update their existing double tax treaties and transpose measures agreed in the BEPS project without further need for bilateral negotiations. It now extends to over 1,650 bilateral tax treaties. There are now 94 jurisdictions covered by the Convention, with 47 countries having ratified, approved or accepted the MLI.