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Pascal Saint-Amans: Digital Tax Agreement by October

Speaking at a conference organised by the Government of Ireland, Pascal Saint-Amans, the OECD Tax Director confirmed the agreed timeline for reaching a global agreement on digital tax. Pascal Saint - Amans said that the G20 meeting of the finance ministers in July is still the tentative deadline for an agreement to be reached, however some details may need to be agreed until October, the date of the subsequent G20 meeting.

Concerning the corporate minimum tax rate, Saint - Amans confirmed it will be below the US-proposed 21%. It is widely expected that the rate will be settled in the range around 15%, rather than 21% as suggested by the United States, in order to “accommodate Ireland’s 12.5% rate". “There is momentum, there is a new dynamic that is likely to bring us to a resolution. With adoption of the two pillars will come the need to stabilise the system and to provide for peace — tax peace. We haven't had tax peace for too long.", the OECD tax director said.

Benjamin Angel, European Commission Director for Direct Taxation at DG TAXUD, speaking at the same event said that the EU is keen to proceed with its own proposals on digital levy this summer, noting that the Commission does not intend to create obstacles to the digitalisation of the European economy, which is an EU policy priority. Key consideration in designing the levy is to avoid discrimination of non-resident companies or tensions with the United States. Mr Angel highlighted that the EU digital levy has nothing to do with the negotiations held at the OECD at present.

US Proposes Global Minimum Taxation

New proposals from President Biden's administration have increased the likelihood on reaching a global solution for taxation of the digital economy, including minimum taxation. Seeking to reassert US leadership in global economic policy, Secretary of Treasury Janet Yellen set out proposals for global minimum corporate tax rate allowing governments to tax the global profits of 100 largest and most profitable multinationals, including the large US tech companies, regardless whether they reach a 'permanent establishment' threshold in those jurisdictions. The US Treasury paper setting out the proposal has been circulated to the members of the inclusive framework currently discussing the matter at the OECD level.

If the proposals are successfully agreed at the OECD, an uphill battle for President Biden would still be securing a bi-partisan agreement at US Congress, where Republicans have already expressed their discontent, arguing that the proposals give away US tax base to foreign jurisdictions.

Commenting, Secretary Yellen said: “Together we can use a global minimum tax to make sure the global economy thrives based on a more level playing field in the taxation of multinational corporations, and spurs innovation, growth and prosperity,” Yellen said in a speech to the Chicago Council on Global Affairs.

Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration, welcomed the US proposal, stating that it "reboots the negotiation of a comprehensive solution to address a comprehensive issue: digitalisation and globalisation. Very interesting and positive dynamic. Good prospect of a simplified but meaningful Pillar 1 and robust minimum tax." The proposals were also welcomed by Italy and the Netherlands, whereas France took a more cautious approach stating that an agreement must be reached on both pillars.

However, under the proposals countries like Ireland are presumed to lose significant revenue. Under the Stability Programme Update for 2021 of the Irish Department of Finance published on 14 April, Ireland stands to lose 2 billion Euros in corporate tax revenue by 2025.

Commenting on these developments, Pascal Donohoe, Ireland's Finance Minister said: *“Small countries, such as Ireland, need to be able to use tax policy as a legitimate lever to compensate for advantages of scale, resources and location enjoyed by larger countries.”*

Final Reminder: CFE Forum - Tax Transparency, Exchange of Information & Digital Commerce

The CFE Tax Advisers Europe Forum 2021, will be held virtually next wee on Thursday, 6 May 2021. The Keynote speech will be provided by Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration.

The first panel will comprise a keynote speech by Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration. Panellists from the European Commission, European Court of Auditors, academia and practice will then discuss cross-border exchange of information in the EU, and implications for taxpayers' rights, including use of information by tax authorities. To register to attend Panel 1, please follow this link.

The second panel will comprise panellists from the European Commission, digital platforms and practice, and will examine the topic of VAT in the digital economy, in respect of the abolition of distance sales rules and making platforms liable for VAT on sales from outside the EU. To register to attend Panel 2, please follow this link.

OECD Report on COVID-19 Fiscal Policy Measures

The OECD has published a new report containing national measures and update of the April 2020 Report, Tax and Fiscal Policy in Response to the COVID-19 Crisis. The new report provides a comprehensive overview of the tax measures introduced during the COVID-19 crisis across 66 countries and jurisdictions since the outbreak of the pandemic. The report also contains measures developed by the 53 member jurisdictions of the Forum on Tax Administration (FTA) together with the OECD, to support taxpayers and review business continuity arrangements.

A comprehensive Spreadsheet of the measures is available on this link.

CFE Statement on Cross-Border Provision of Tax Professional Services

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CFE Tax Advisers Europe has published an Opinion Statement on the European Commission roadmap on reform of professional services of March 2021. CFE concurs with Commission's assessment that well-functioning professional-services sector can be a significant source of economic growth and contributor to the post-crisis economic recovery of the European continent.

CFE supports the proposed initiative's aim to take stock of the changes introduced so far by way of taking into account the recent developments in Europe's regulatory framework. However, we would like to remind stakeholders that the different regulation of professional services across Europe is a direct result of the different regulatory, legal framework and culture, which remains prerogative of Member States. In context of tax advice, this is particularly true given that tax is jurisdictional and the main barriers to cross-border tax advice are of different nature: language barriers as well as aptitude, knowledge of substantive and procedural tax law of the other state.

We invite you to read the CFE statement on the matter.

Fabrizia Lapecorella New Chair of OECD's Fiscal Committee

The OECD members have appointed Fabrizia Lapecorella, Director General at the Italian Ministry of Finance, as new Chair of the Committee of Fiscal Affairs, replacing Germany's Marin Kreienbaum, effective 1 January 2022. Ms Lapecorella holds a PhD in Economics from the University of York, United

Kingdom and has held high-level positions in international tax policy at the OECD, the EU and the Italian Government.

At the highest EU level, Ms Lapecorella chaired the Code of Conduct Group for Business Taxation, instrumental in establishment of the EU 'blacklist' of non-cooperative jurisdictions for taxation purposes, monitoring of potential aggressive tax measures in the EU member states and the transparency and reform of the Code of Conduct group.

Commenting the appointment, Martin Kreienbaum, current Chair of the Committee of Fiscal Affairs said: "I am very pleased that the members have selected Fabrizia Lapecorella to lead the CFA. She is well known to the Committee and brings a wealth of experience in tax policy and is well-versed in both the technical and political dimensions. I look forward to working with her over the remainder of my term to ensure a smooth transition," Mr Kreienbaum added.

European Parliament: Lack of Progress in Reforming Code of Conduct Group

Speaking at the last meeting of the European Parliament Subcommittee on Taxation (FISC), Lyudmila Petkova, Chair of EU's Code of Conduct Group (Business Taxation), informed Members of the European Parliament that the EU finance ministers have not given her mandate to improve the governance structure of the Code of Conduct Group. Ms Petkova noted, however, the progress in reforming the assessment framework designed to assess Member states' corporate tax systems.

The Committee members expressed their concern on the lack of progress on reviewing the Group's governance structure, highlighting recent positive developments in taxation policy coming from the administration of President Biden. A number of MEPs noted that the positive change in Washington might facilitate reforms in the EU and inspire a more progressive approach towards corporate taxation.

The European Parliament adopted a Resolution on 21 January, calling for reform of the Code of Conduct Group due to inefficiencies identified in the 'blacklisting' process.

OECD Tax Dispute Resolution Peer Review Reports Published

In the framework of the work undertaken under BEPS Action 14 and the improvement of the tax dispute resolution mechanisms, the OECD has issued further Stage 2 peer review reports for the jurisdictions of Australia, Ireland, Israel, Japan, Malta, Mexico, New Zealand and Portugal. The reports assess the efforts by the countries to implement the Action 14 minimum standard as agreed to under the OECD/G20 BEPS Project and recommendations contained in the Stage 1 peer review reports.

BEPS Action 14 seeks to improve the tax-dispute resolution mechanisms via the Inclusive Framework peer-review process, which looks into the compliance with the minimum standard reviewed and monitored by peer countries.

All jurisdictions have signed the OECD MLI, with only one jurisdiction remaining that has not ratified the instrument. All jurisdictions have updated their MAP guidance, the majority successfully decreased the time taken to close MAP cases, and all have added additional personnel to their competent authorities dealing with MAP cases.

CFE Statement on EU Digital Levy Consultation

CFE has issued an Opinion Statement on the EU Digital Levy Roadmap and recent public consultation published by the European Commission.

CFE supports the ongoing process of reaching a globally acceptable solution for the tax challenges of the digital economy. CFE is concerned by the fact that there is a multitude of turnover digital tax measures being introduced at national level worldwide, and that the complete technical aspects of the proposed OECD solution are not yet known. How an EU digital levy would sit alongside those measures is unclear, and is a matter of concern for tax advisers, business and tax administrations alike.

CFE fears that in absence of the measures being connected, there will inevitably be double, triple and quadruple taxation on companies as a result of these multiple digital tax measures. CFE observes that corporate income top-up taxes are being proposed in a number of Member States at present, also with the aim of aiding the economic recovery from the COVID-19 impact. Any EU tax which also takes the form of a corporate income top-up tax would very likely result in double taxation. It is also unclear from the Roadmap and questionnaire which digital sources may come within scope of the tax, or how corporate tax bases for businesses that are not operating in-country will be defined.

CFE believes that establishing tax certainty in the international taxation framework as well as the protection of taxpayers' rights and the avoidance of double taxation is of utmost importance and must be a priority for policymakers. Accordingly, CFE believes that the focus should remain on the ongoing work of the OECD, and on minimising the enormous administrative burdens that will accompany any agreed solution.

We invite you to read our statement, and remain available for any queries you may have.

OECD Report on the Impact of the Gig Economy on VAT Policy & Administration

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The OECD has published a report analysing the impact of the growth and sharing economy on VAT/GST policy and administration, and "presents a range of solutions for the application of VAT/GST to sharing and gig economy operators. These solutions are designed to ensure a level playing field between operators in the rapidly growing sharing and gig economy and more traditional businesses."

Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration, said of the report *"The opportunities offered by digital platforms and big data have enabled individuals and businesses to connect with consumers and provide services to them on a larger scale than ever before. Through these new technology-enabled enterprises, tax authorities worldwide have far greater visibility of previously informal activities, creating new opportunities to enhance tax compliance and ensure the effective collection of VAT/GST in this rapidly growing part of the economy."*

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