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CFE Discussion Paper: "If It Is Legal, Is It Acceptable?" - An Ethics Quality Bar for All Advisers

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Against the backdrop of recent actions by governments and lawmakers, such as the G7 agreement on minimal global corporation tax and anti-tax avoidance initiatives of the EU, CFE has issued a discussion paper founded on its commitment to high professional standards in tax advice seeking to promote ethical professional judgment across all tax advisers in Europe. While tax advisers play a valuable role in the proper functioning of tax systems, this role can be undermined by the promotion of abusive tax arrangements within legal parameters.

“If it is legal, is it acceptable?” is the central ethical question which inspired this paper. It is distinct from criminal tax evasion – breaking the law – which CFE unequivocally condemns. The question comes down to whether there is manipulation and artificiality in tax planning. CFE has issued this paper to stimulate discussion on how to tackle this problem among all who have an interest in how our tax systems function in Europe, not just tax specialists. We are actively seeking stakeholder feedback.

Setting an Ethics Quality Bar

This paper is focused on the future, noting that tax systems will play a key role in repairing the strained public finance conditions after the COVID-19 pandemic, as well as the growing transformational impact of technology on tax services and tax administration overall. The principal objective of the paper is to seek feedback on a proposed "ethics quality bar" based on five questions that all tax advisers should reflect on when undertaking their advisory role in the overall tax system.

CFE seeks views on whether the questions can help to steer all advisers in the direction of an appropriate balance between the rights and obligations of taxpayers, avoiding abusive planning. To that end, a series of stakeholder events will be announced in due course.

EU: Addressing the Debt - Equity Tax Bias (DEBRA)

The European Commission has published an inception impact assessment seeking feedback on the initiative to reduce the debt- equity tax bias in the EU, as part of the recent corporate tax reform proposal within the Communication for Business Taxation of the 21 Century.

It is widely acknowledged in the academic literature that the debt-equity tax bias is highly distortive of investment decisions. Interest as a return on debt is tax planning efficient, whereas similar tax benefits are ordinarily not in place for equity investment. As a result, companies often become highly leveraged for taxation purposes, which hinders innovative investment through equity whilst piling debt. At present tax legislation of only six EU Member states includes some form of allowance for corporate equity (ACE). An ACE would retain the deduction for interest expenses but would also add a similar deduction for the normal return on equity.

The Commission is seeking feedback on two proposed options:

- Disallowing the deductibility of interest payments, or creating an allowance for equity (ACE) by enabling the tax deductibility of notional interest for equity;
- Introducing allowance for a notional interest deduction on all corporate equity, new corporate equity or corporate capital (equity and debt).

A public consultation questionnaire concerning the initiative will be launched in the coming weeks, and feedback can be submitted on the inception assessment document until 12 July midnight CEST.

EU Parliament: Exchange of Views with US Treasury & EU Commission

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The European Parliament Taxation Subcommittee (FISC) will hold a public hearing with Itai Grinberg, Deputy Assistant Secretary, US Department of the Treasury, as well as a public hearing with the European Commission, DG TAXUD (Ioanna Mitroyanni, Head of Sector) on the topic "The development of new tax practices: what new schemes should the EU pay attention to?". The session will take place on Tuesday 22 June 2021, from 13.45 to 16.45 and 16.45 to 18.45. In camera, Members of Parliament will have a coordinators' meeting with Gabriel Zucman, Chair of the EU Tax Observatory.

The meeting will be web-streamed and can be followed live, with translation in the following languages: FR, DE, IT, NL, EN, ES, PT, CS, PL.

Ireland, Poland, Hungary: Recognise the Role of Legitimate Tax Competition

In the aftermath of the G7 landmark agreement on international taxation, some EU Member states continue to express their views that a compromise should be reached on Biden's international tax plan, thus protecting the role of legitimate tax competition.

"*What we are going to do is engage in the OECD process very intensely across the coming weeks and months and I do hope an agreement can be reached that does recognise the role of legitimate tax competition for smaller and medium-sized economies. It is difficult for me to say what that compromise could yet look like. But I do believe it is in the interest of everybody to find a compromise*," Ireland's Finance Minister Paschal Donohoe told CNBC.

Poland and Hungary on the other hand expressed their views that unless a carve-out for substantive activity is agreed for domestic businesses, they would not be supporting a global minimum tax rate. "*We shouldn't have the G7 dictating what tax rate we have in our country. Setting a lower tax rate was an important way for countries to catch up with more advanced economies by attracting innovation from abroad*", said Tadeusz Koscinski, Poland's Finance Minister.

In the interim, pending a broader political agreement and technical solution, Pascal Saint-Amans, OECD's Tax Policy and Administration Director, said that countries are looking at $150 billion in extra revenue across the world, solely due to introduction of the global minimum corporate tax rate. “*This is not an anecdotal amount. In some ways, this is the end of the work on regulating globalisation for greater tax justice*”, Pascal Saint-Amans said.

Summary: CFE Tax Academy Webinar on Cryptocurrency Developments & Digital Regulation

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CFE's June 2021 webinar in the CFE Tax Academy Series examined the topic of "Cryptocurrency & Digital Regulation Developments for Tax Advisers", discussing notable developments in the cryptocurrency and e-assets sphere for tax advisers to be aware of, the Digital Transformation process in the UK, Europe and in Italy, as well as Sustainable Transition and how technology can be of help to it. Speakers' presentation slides are available at the following link.

This webinar was the first in a planned series of webinars examining issues relating to tax and technology. The next webinar will take place on 29 July 2021 at 16:00 CEST on the topic of the use of central bank backed digital currency and current taxation practices relation to e-money. More information concerning registration for this event will be made available in due course via the CFE events page.

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