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Pillar 2 Directive: EU Fails to Reach Agreement on Minimum Tax Directive

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Finance Ministers were unable to agree reach political agreement on the EU Commission proposal for a directive on minimum tax on the implementation of Pillar 2 into the EU legal order in June prior to the end of France's rotating Presidency of the Council of the European Union. At the ECOFIN Council meeting on 17 June Poland lifted its veto, however Hungary then reversed its support for the proposal last-minute. Poland's Finance minister Magdalena Rzeczkowska had maintained its veto over the compromise directive as agreed by the rest of the EU member states and the French presidency at the ECOFIN in May, demanding a legal link between Pillar 2 and Pillar 1. Hungary has indicated it is no longer able to support the deal due to the changed economic and fiscal climate arising from the war in Ukraine as well as inflation. France indicated it would continue to push for a last-minute deal in the final days of their Presidency, but agreement could not be reached. The Czech Republic takes over the EU rotating Presidency on 1 July.

Following the failure of Members States to reach agreement at ECOFIN, MEPs also discussed the issue of national vetos at the Plenary session of Parliament on 23 June 2022. MEPs largely agreed that an enhanced cooperation procedure or a move to qualified majority voting in the field of taxation would resolve these issues, but certain MEPs stressed the importance of the sovereignty principle in Council negotiations.

Adoption of Pillar 2 is also stalled across the Atlantic, where President Biden is struggling to pass the legislation through the US Congress. Despite the House adoption of the Build Back Better Act in December 2021, the Senate remains divided on this matter. It is therefore unclear whether the bill will be passed before the November US midterm elections.

EU Consultation on Introducing a Common EU-wide System for Withholding Taxes

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The CFE has issued an Opinion Statement in relation to the European Commission's public consultation on introducing an EU-wide system on withholding taxes which ran until 26 June. The CFE Tax Advisers Europe is supportive of the initiative to introduce an EU-wide system for relief at source of withholding tax on dividend, interest, royalty payments and service fees, and for exchange of information and cooperation between tax authorities under the system.

CFE has a strong preference for a harmonized relief at source system and strongly support that there should be a harmonized means to obtain via e-request a tax residence certificate, with swift online provision of the tax residence certificate, and a digitalised verification system. Refund procedures are costly, time-consuming and often result in taxpayers having their refund claims refused for various administrative-related reasons. It is illogical that if one invests in the US, the treaty rate is automatically applied based on very simple and straightforward procedures, whereas this is not the case automatically if one were to invest in shares in another EU Member State.

In conjunction with the implementation of measures to improve the withholding tax refund procedures and establish a common EU relief at source system, CFE is of the view that there are solid public policy arguments for Option 3 (enhancing the existing administrative cooperation framework to verify entitlement to double tax convention benefits) and extending this to third countries. This could build on existing multinational arrangements including, for example, FATCA, though the focus there is on individuals. This would minimise de facto economic losses to investors etc and does the most to promote transparency and cooperation among tax authorities.

We invite you to read the Opinion Statement and would welcome any feedback or queries concerning the position paper.

Professional Regulation of Tax Advisers in the EU: Commission Consultation to be Launched in July

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The European Commission will not propose amendments to the existing rules on professional regulation of tax advisers, according to reports from various events and meetings held last week. Due to the complexity and diversity of the professional regulation among EU Member states, the EU will most likely opt for addressing issues only with enablers who are involved in tax avoidance schemes with third countries. The public consultation, which is scheduled to be published in July, will clarify the proposed solutions for addressing any outstanding issues with ‘enablers of tax avoidance’, but it is very likely the proposed measures would not affect the majority of tax advisers.

As highlighted at CFE’s address to the European Parliament on 25 April 2022, a ‘one-size-fits-all’ approach in regulating tax professionals is difficult to achieve in Europe, given the regulatory culture differs significantly among European states. It is important to recognise the significant differences between tax intermediaries. Policymakers therefore need to ensure that all intermediaries operate to high standards, which calls for a holistic policy approach.

OECD Transfer Pricing Profiles Updated

The OECD has now made available new transfer pricing profiles for Egypt, Liberia, Saudia Arabia and Sri Lanka.

The transfer pricing profiles set out "countries' domestic legislation regarding key transfer pricing principles, including the arm's length principle, transfer pricing methods, comparability analysis, intangible property, intra-group services, cost contribution agreements, transfer pricing documentation, administrative approaches to avoiding and resolving disputes, safe harbours and other implementation measures."

Further information and the transfer pricing profiles are available here.

CFE Opinion Statement on Possible Solutions to Inheritance and Gift Taxation Issues Within the EU

The CFE Tax Advisers Europe has issued an Opinion Statement concerning possible solutions to inheritance and gift double taxation issues within the EU.

CFE Tax Advisers Europe welcomed the work of the European Commission in their report completed in 2016, in which an expert group assembled by the Commission examined methods of improving issues facing EU citizens in relation to cross border inheritance tax obstacles. CFE Tax Advisers Europe also welcomed the European Commission initiative launched in 2021 to address administrative issues experienced cross-border by EU citizens. Although much has been achieved in the past, EU citizens continue to face excessively complex administrative procedures, other barriers, or divergent interpretation of tax treaties. As a result, citizens and companies often are prevented from fully exploring the possibilities of the Single Market and the four freedoms guaranteed within the EU treaties.

In recent years, there has been a raft of measures which seek to reduce tax evasion throughout the EU, the aims of which CFE has fully supported. However, CFE equally welcomes that more attention is now being brought to cases of double taxation throughout the EU, and hope EU Member States can arrive at unanimous solutions to these problems.

CFE believes cross border inheritance tax issues have only become more complex in recent years, and is taking this opportunity to highlight these issues experienced in practice by its members. CFE believes in addition that similar issues should be dealt with as far as gift taxes are concerned as the situation is generally similar or even worse as there are only relatively few tax treaties covering gift taxes.

We invite you to read the Opinion Statement and would welcome any feedback or queries concerning the position paper.

EU Parliament's FISC: Study on Regulation of Intermediaries

The European Parliament's Permanent Subcommittee on Tax Matters, FISC, met on 27 June 2022. At the meeting, MEPs who make up the members of FISC discussed a study conducted by Prof. Dr. Emer Mulligan from the National University of Ireland Galway on "*The regulation of intermediaries, including tax advisors, in the EU/Member States and best practices from inside and outside the EU "*. The discussion can be replayed here.

The Subcommittee also exchanged views with Commissioner Paolo Gentiloni, Commissioner responsible for Economy, on the political and legislative follow-up to the work of the FISC Subcommittee. The upcoming work programme of the Subcommittee is available here.

OECD Publishes Public Comments on Tax Certainty Under Pillar One

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The OECD has published the public input received on the consultation process conducted concerning tax certainty aspects under Amount A of Pillar One from the Pillar 1 solution to address the tax challenges arising from digitalisation and globalisation of the economy.

As set out in the consultation document:

A central element of Amount A is an innovative ***Tax Certainty Framework for Amount A*** *which guarantees certainty for in-scope groups over all aspects of the new rules, including the elimination of double taxation. This eliminates the risk of uncoordinated compliance activity in potentially every jurisdiction where a group has revenues, as well as a complex and time-consuming process to eliminate the resulting double taxation. The Tax Certainty Framework incorporates a number of elements designed to address different potential risks posed by the new rules:*

- *A Scope Certainty Review, to provide an out-of-scope Group with certainty that it is not in-scope of rules for Amount A for a Period, removing the risk of unilateral compliance actions.*
- *An Advance Certainty Review, to provide certainty over a Group's methodology for applying specific aspects of the new rules that are specific to Amount A, which will apply for a number of future Periods.*
- *A Comprehensive Certainty Review to provide an in-scope Group with binding multilateral certainty over its application of all aspects of the new rules for a Period that has ended, building on the outcomes of any advance certainty applicable for the Period.*

Furthermore, a ***tax certainty process for issues related to Amount A*** *will ensure that in-scope Groups will benefit from dispute prevention and resolution mechanisms to avoid double taxation due to issues related to Amount A (e.g. transfer pricing and business profits disputes), in a mandatory and binding manner. An elective binding dispute resolution mechanism will be available only for issues related to Amount A for developing economies that are eligible for deferral of their BEPS Action 14 peer review and have no or low levels of MAP disputes."*

Further details of the consultations conducted in the recent months on the 14 building blocks which make up Pillar 1 and the public responses received is available here.

DGTAXUD Conference on Mega-Trends & Their Impact on Taxation

The European Commission's Directorate-General for Taxation and Customs Union held a conference on Tuesday 28 June 2022, from 13:30 to 16:15 CEST on the topic of "Mega-Trends and Their Impact on Taxation".

Speakers included Paolo Gentiloni (European Commissioner for Economy), Gerassimos Thomas (Director General for Taxation and Customs Union - European Commission), Benjamin Angel (Director for Direct Taxation - European Commission) and Pascal Saint-Amans (Director, Centre for Tax Policy and Administration - OECD), who discussed how tax systems in the EU are faring after the pandemic, tax policy actions that can support economic recovery and how to ensure fiscal resilience and environmental sustainability in the future.

The conference is available to be replayed here.

Forum on Tax Administration Publishes 2022 Report

The OECD's Forum on Tax Administration has issued the Tax Administration 2022 report, which compares data on particular aspects of tax administration and tax systems across 58 economies, compiled in the 2021 International Survey on Revenue Administration. The report examines the data to highlight key trends, innovations and best practice, in order to facilitate information sharing and dialogue between tax revenues on improving tax systems.

The report highlights that in response to the coronavirus crisis, tax administrations had continued to significantly improve their digital transformation processes, and invest resources in digital solutions for tax compliance. The report sets out that 90% of tax administrations now use data science and analytical tools to facilitate the use of data and that digital channels are now dominating interactions with taxpayers, with around 1.3 billion contacts via online taxpayer accounts, and more than 30 million contacts via chatbots.

The Chair of the Forum on Tax Administration, Bob Hamilton said of the report, "*This edition of the Tax Administration Series highlights the range of innovations being undertaken by tax administrations both in their interactions with taxpayers and in their internal operations, including as a result of lessons learnt from the COVID-19 crisis. Leading a tax administration myself, it is clear to me that digital service delivery, as well as increased agility and flexibility, is going to be of central importance to us in achieving our goals while meeting the expectations of taxpayers in the rapidly digitalising economy.*"

Tax Transparency in Africa 2022: Africa Initiative Progress Report

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Launched as part of the Africa Initiative established in 2014 to address tax evasion, illicit finance flows and equip African nations to adhere to improvements in global tax transparency, the progress report for 2022 on Tax Transparency in Africa has now been published. The report analyses progress in Africa in addressing tax evasion and illicit flows through exchange of information, setting out information collected from 38 countries, and the impact of capacity building eforts by the Global Forum. The report is produced by the Global Forum on Transparency and Exchange of Information for Tax Purposes, the African Union Commission and the African Tax Administration

Forum.

The new report sets out that 22 African countries are party to the multilateral Convention on Mutual Administrative Assistance in Tax Matters, that effective infrastructures for information exchange are being set up, and that 10 African countries have committed to automatic exchange of financial account information (AEOI) by a specific date. It is estimated that since 2014 over EUR 223 million has been collected in tax revenue due to exchange of information.

The selection of the remitted material has been prepared by:
Piergiorgio Valente/ Aleksandar Ivanovski/ Brodie McIntosh/ Filipa Correia