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EU Commission Launches Public Consultation on Revision of the EU Customs Code

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The European Commission has launched a consultation which will feed into a planned legislative proposal, anticipated to be published in Q4 of 2022, to revise the EU Customs Code. The legislation will aim to address challenges posed by the rise of e-commerce, uneven facilitation and simplifications for legitimate trade, enforcing prohibitions and restrictions, management of information, data fragmentation, analytical capacity, co-operation between customs authorities and governance of the Customs Union by Member States.

In the Call for Evidence on the consultation webpage, the following are listed as measures being considered for the legislation by the Commission:

- *Strengthening common risk management, for example by, leveraging partnerships with trusted traders and other competent authorities and reinforcing the advance cargo information.*
- *Simplifying customs formalities for reliable and trusted traders established in the EU, for example by making more use of commercial information rather than of burdensome administrative requirements.*
- *Enhancing the co-operation between customs and non-customs authorities (such as market surveillance authorities, law enforcement authorities, tax agencies). This could cover, for example, joint policy elaboration, operational coordination, enforcement and information exchange.*
- *Reforming the EU customs governance to provide for an EU layer which could, for example:*
    - *Better implement the "risk appetite" or risk priorities identified at policy and political level.*
    - *Better deliver on activities where "acting as one" would add value (e.g. EU-wide risk management, information technology management, training of customs officers, financing of customs equipment, supporting simplifications and services for trade, handling EU crisis response, as well as "protecting as one" by driving joined-up co-operation between the customs and other authorities).*
- *Providing for a fully-fledged EU customs information environment, putting emphasis on data management capabilities for better risk management, and including simplified provision of data (e.g. enabling re-use of data, avoiding duplications, etc.) in reduced customs processes, streamlined handling of non-customs formalities (building on the concept*

of “single window”), more tailored services for trade, other public authorities and consumers.

- *Adapting customs legislation to e-commerce transactions, for example by strengthening supervision of business-to-consumer flows and liability of involved actors for all fiscal and non-fiscal rules.*
- *Integrating the green agenda in the customs agenda and traders behaviours.*

Input can be provided on the consultation questionnaire until 14 September via the Have Your Say website.

UK Publishes Draft Legislation on Multinational Top Up Tax

The UK's revenue authority, HM Revenue and Customs, has published a policy paper on draft legislation which seeks to impose a top-up tax on UK parent members when a subsidiary is located in a non-UK jurisdiction, and the group’s profits arising in that jurisdiction are taxed at below the minimum rate of 15%. The legislation will come into effect for fiscal years on or after 31 December 2023.

This draft legislation seeks to implement the OECD Pillar 2 agreement into UK law, and follows on from the publication of the OECD Pillar 2 Model, which contains detailed rules to assist governments in the implementation of the minimum 15% tax rate. The multinational top-up tax is the UK's adoption of the Income Inclusion Rule (IIR), one of the two charging mechanisms in the Global Base Erosion Rules (GloBE rules). The GloBE rules have been developed by the OECD's Inclusive Framework, as part of the solution to address the tax challenges of the digital economy.

The draft legislation is available here.

EU Commission July EU Law Infringement Package

The EU Commission has issued a number of infringement decisions or letters of formal notice addressed to Member states for breach of their legal obligations under EU law.

Notably, the Commission issued reasoned opinions to Spain and Greece in relation to ATAD3, concerning hybrid mismatches with third countries, for failing to communicate details of their implementing measures on reverse hybrid mismatch rules which aim to prevent taxpayers exploiting differences between tax systems.

Additionally, the Commission also issued a reasoned opinion to Portugal for failing to communicate details of the transposition into national law of new EU rules on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages and to Greece, Latvia and Portugal for failing to notify the Commission of details of the transposition into national law of new rules on excise duties.

EESC Calls for Simplified Tax Rules on Cross-Border Teleworking

The European Economic and Social Committee have recently adopted an opinion on the taxation of cross-border teleworkers and their employers. The EESC calls on the European Commission to develop a set of rules that ensures that employees and employers in Europe do not suffer double or multiple taxation, or unintended non-taxation, due to working from abroad.

The EESC in the opinion sets out the following:

- stresses that the rules should be easy for both employees and employers. One possibility would be for Member States to agree to only tax the employee if the number of working days in the country exceeds 96 days per calendar year. The EESC notes that in the OECD/IF tax work, a Multi Lateral Instrument (MLI) has been used as a tool to facilitate a timely implementation of new tax rules;
- encourages the EC to consider whether a one-stop shop, like we have in the VAT area, could be a possibility. It would require the employer to report for cross-border teleworkers the number of days teleworkers worked in their country of residence and in the country where the employer is located.

Rapporteur on the file, Krister Andersson, said of the opinion: *"We are in a new world, where people want to work differently. The EESC fully supports more flexible work and cross-border teleworking situations. But this new paradigm also poses serious challenges for international taxation systems and an efficient European single market. We ask the Member States and the European Commission to keep working together to find solutions."*

EU Tax Policy Report: Semester I - January to June 2022

CFE Tax Advisers Europe has recently published its EU Tax Policy Report covering the first semester of 2022. The EU Tax Policy Report is a bi-annual publication which provides a detailed analysis of significant primary law and tax policy developments at both EU and international level that have occurred in the previous six months which would be of interest to European tax advisers. It also includes an overview of selected CJEU case-law and relevant European Commission decisions.

We invite you to read the EU Tax Policy Report, and remain available for any questions or comments that you may have.

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