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| |  |  | | --- | --- | | cid:image003.jpg@01D0AD16.43172360 |  |     **22 June 2015**  **1.       Commission publishes Action Plan on corporate taxation / Mandatory CCCTB proposal in 2016**  On 17 June 2015, the European Commission has published an “Action Plan for fair and efficient corporate taxation in the EU”, outlining a number of intended measures for the coming years. These are  -          a re-launch of the CCCTB (common consolidated corporate tax base)  in 2016;  -          more concrete and EU-specific guidance on implementing the OECD Transfer Pricing Guidelines;  -          if the “modified nexus approach” linking beneficial IP regimes (like “patent boxes”) to actual research and development activities is not implemented consistently by member states within 12 months, a legislative proposal on this issue;  -          improving double taxation dispute resolution by amending the existing Arbitration Convention;  -          coordination of joint tax audits by member states, and  -          a renewed mandate for the Platform for Tax Good Governance and the Code of Conduct group.  As to the new CCCTB, the Commission is now considering a mandatory tax base for “multinational companies” without indication of a size threshold. The new CCCTB should be adopted in a two-step approach: The first step would mainly deal with harmonisation of the tax base. This will include work on the following (BEPS and other anti-avoidance) elements:  -          permanent establishments  -          CFC (controlled foreign companies) rules  -          review of the beneficial treatment of research & development activities  -          reducing corporate debt bias, i.e. the more favourable tax treatment of debt over equity.  Only in a second step, the Commission is planning to allow consolidation and apportionment of the tax revenue between member states, as it has proven to be the most difficult element in Council negotiations. Nevertheless, the Commission intends to propose allowing temporary cross-border loss offset. Losses could be offset against profits in another member state but would “return” to the loss-making entity once it has become profit-making again.  Until the new proposal is presented, work in the Council on the current CCCTB will continue in order to reach as much progress as possible before the new proposal is made. The Commission stresses that harmonisation of tax rates is not envisaged.  Further documents and explanation:  -          Communication COM(2015)302: “5 Key areas for action” [EN/DE/FR](http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/fairer_corporate_taxation/com_2015_302_xx.pdf)  -          Main press release: [EN](http://europa.eu/rapid/press-release_IP-15-5188_en.htm) (all EU languages)  -          Questions and Answers: Action Plan for fair and efficient corporate taxation: [EN](http://europa.eu/rapid/press-release_MEMO-15-5175_en.htm) (FR DE available)  -          Questions and Answers: CCCTB re-launch: [EN](http://europa.eu/rapid/press-release_MEMO-15-5174_en.htm)  -          Staff working document SWD(2015)121 of 17 June 2015: [EN / DE / FR](http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/fairer_corporate_taxation/annex_com_2015_302_xx.pdf)  **2.         Commission launches public consultation on corporate tax transparency**  Part of the Action Plan is a public online consultation on whether and how corporate tax transparency should be enhanced through mandatory country by country reporting of tax information. Aspects addressed are the types of companies (size thresholds and geographical limitations) concerned, the kind of information to be reported, publication of (part of) this information, anonymity of published data and potential harm from publication of sensitive business information. The questionnaire also addresses reporting requirements for tax advisers, as specifically addressed by the OECD (BEPS Action 12). The deadline is 9 September 2015.  -          Public consultation on further corporate tax transparency ([link](http://ec.europa.eu/finance/consultations/2015/further-corporate-tax-transparency/docs/consultation-document_en.pdf))  **3.       Commission publishes tax havens “black list”**  On 17 June 2015, the Commission also published a list of 30 non-EU jurisdictions which figure on black lists of more than 10 member states as non-cooperative jurisdictions, according to those member states´ criteria. The Commission is planning to regularly update this list.  However, as the Commission has admitted, the member states´ blacklisting processes differ greatly in the criteria used and most member states do not provide for periodic updates of their black lists. In its Platform for Tax Good Governance, the Commission has tried, since 2013, to reach agreement among EU countries on a common set of criteria and blacklisting methodology, without success to date.  The Commission will consider coordinated counter measures towards non-cooperative tax jurisdictions in the more distant future.  -          Tax havens map, 17 June 2015: [EN](http://ec.europa.eu/taxation_customs/taxation/gen_info/good_governance_matters/lists_of_countries/index_en.htm)  -          Platform for Tax Good Governance Discussion Paper listing the outcomes of the Commission´s 2014 survey on tax havens, February 2015: [EN](http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/good_governance_matters/platform/meeting_2015/discussion_paper_1212.pdf)  **4.       Commission opens infringement proceeding against Germany over binding fees for tax services**  On 18 June 2015, the European Commission has decided to open an infringement proceeding against Germany over the German fee regulation for tax advisers. German law provides for a minimum and a maximum fee for specific activities reserved to tax advisers and other professions that may give tax advice. Advisers and clients may however agree in writing on fees exceeding the maximum fees, and exceptionally, the tax adviser can be obliged to charge less than the minimum fee. Moreover, there is an overall minimum fee of € 10.  Infringement procedures against restrictions to professional services have also been launched against Austria, Cyprus, Malta, Poland and Spain. They refer to requirements related to shareholding, voting rights or legal seat, restrictions to multidisciplinary activities and activities deemed incompatible, the latter concerns lawyers and litigation agents (procuradores) in Spain. The above-mentioned member states received a Letter of Formal Notice, which is the first of three steps in an infringement procedure and constitutes an official request for information. They have two months to respond.  -          Press release: [EN](http://europa.eu/rapid/press-release_IP-15-5199_en.htm) ([FR](http://europa.eu/rapid/press-release_IP-15-5199_fr.htm) [DE](http://europa.eu/rapid/press-release_IP-15-5199_de.htm) [ES](http://europa.eu/rapid/press-release_IP-15-5199_es.htm) [EL](http://europa.eu/rapid/press-release_IP-15-5199_el.htm) [MT](http://europa.eu/rapid/press-release_IP-15-5199_mt.htm) [PL](http://europa.eu/rapid/press-release_IP-15-5199_pl.htm) available)  **5.       Commission refers Belgium to Court over tax treatment of investment in property abroad**  On 18 June 2015, the European Commission has decided to refer Belgium to the EU Court of Justice (CJEU) because of the different methods in Belgian tax law of assessing income from property located abroad and in Belgium. Income from property abroad is assessed at a higher value than that from comparable property in Belgium, thus favouring  investments in certain properties in Belgium over similar property in other EU or EEA member state.  -          Press release: [EN](http://europa.eu/rapid/press-release_IP-15-5201_en.htm?locale=en) (FR, DE, NL available)  **6.       Council discusses two-step approach to adopting Interest & Royalties Directive**  The EU Ecofin Council, on 19 June 2015, discussed the splitting of the European Commission´s proposal of 2011 for a recast of the Interest & Royalties Directive into two elements, to facilitate its adoption. This approach implies, as a first step, the adoption of an anti-abuse clause preventing the granting of the benefits of the Directive for arrangements which are not genuine, i.e. that are not put into place for valid commercial reasons which reflect economic reality. The proposed wording would provide for a minimum harmonisation, leaving member states the possibility to maintain further anti-abuse rules in place. A majority for such approach was reached but not, as required, unanimity.  -          Council meeting press release : [EN](http://www.consilium.europa.eu/en/meetings/ecofin/2015/06/st10089_en15_pdf/)  -          June 2015 compromise proposal : [EN](http://data.consilium.europa.eu/doc/document/ST-9674-2015-INIT/en/pdf)  \*\*\*\*\*  *The selection of the remitted material has been prepared by Piergiorgio Valente / Filipa Correia / Rudolf Reibel*  *Follow us on* [Linked in](http://www.linkedin.com/company/confederation-fiscal-europeene?trk=company_name) cid:image002.png@01D05A62.500B7F50 |
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