



7 March 2016

1. Public consultation on OECD draft addressing treaty residence of pension funds

The OECD invited stakeholders to comment on draft proposals changing the rules for 'treaty residence' of pension funds in the OECD model tax treaty. The issue of whether a pension fund should be treated as a resident for treaty purposes was included in the OECD's Base Erosion and Profit Shifting (BEPS) Project. In line with the BEPS Action plan, a pension fund is considered to be a resident of the State in which it is constituted for the purposes of tax treaties regardless of whether that pension fund benefits from a limited or complete exemption from taxation in that State. This principle will now be elaborated in the tax treaty model.

Comments should be submitted by 1 April 2016.

- Press release: [EN](#) (FR available)

2. European Court of Auditors tables report on how to tackle intra-community VAT fraud

The European Court of Auditors (ECA) calls for tougher measures against intra-Community VAT fraud in a report released on 3 March 2016. The European Court of Auditors has no judicial power but audits the accounts of EU institutions.

The ECA report reveals significant weakness of the current system and calls on the European Commission to put in place a common system to estimate the scale of intra-Community VAT fraud. The report's analysis was carried out at both the Commission and Member State level. Five EU Member States were reviewed, namely Germany, Italy, Hungary, Latvia and the United Kingdom.

According to ECA, the European Commission should propose amendments to the VAT directive to further harmonise the state requirements on VAT reporting for intra-Community supplies of goods and services and encourage EU Member States to step up their coordination of reverse-charge policies. The European Commission is expected to unveil a new action plan on a definitive VAT regime on 16 March.

- Press release: [EN](#) (all EU languages available [here](#))

3. European Commission's expert group releases two reports on cross border tax problems

On 3 March 2016, the findings of the Expert Group assisting the European Commission on practical ways to remove tax problems faced by individuals who move across the EU have been published in two reports:

One report covers tax problems affecting citizens who work or invest in other EU Member States including measures already in place in certain Member States to facilitate tax compliance. The other report focuses on problems related to inheritance taxation.

The CFE has taken part in the work of this Expert Group through its representatives Volker Heydt and Isabelle Richelle.

- Background information: [EN](#)
- Report on cross-border tax obstacles: [EN](#)
- Report on inheritance tax problems : [EN](#)

4. EP publishes draft report on including country by country reporting in Administrative Cooperation Directive

The European Parliament's ECON Committee has published its draft report on the European Commission's directive proposal of 28 January 2016 on including country by country reporting (CBCR) in the Directive on Administrative Cooperation, in line with the OECD's (BEPS 13) Recommendation. According to that Recommendation, the country by country information would be exchanged among governments, but not be made public. The rapporteur, Polish conservative MEP Dariusz Rosati, proposes to make these reports available to the European Commission, to enable it to better detect possible violation of the state aid rules. The draft report does not favour publication of country by country reports in a first step. However, it is likely that such amendments will be proposed by other EP members. Reportedly, other likely amendment proposals include a lowering of the OECD threshold (group revenue of € 750 million). The EP is aiming at adopting the report by 10 May 2016. The EP's opinion on this proposal is not legally binding, but it could block progress in other dossiers under the ordinary legislative procedure, such as the Directive on shareholder rights, if its views on public CBCR were completely disregarded.

The EU Council will try to reach agreement on a general approach at the draft Directive at the Ecofin meeting on 8 March 2016.

- Draft report dated 23 February 2016: [EN](#)

5. ECJ Advocate-General issues opinion on VAT on deemed supply of a building partly used for business

On 3 March 2016, Advocate-General Julianne Kokott at the EU Court of Justice has delivered her opinion in the Polish C-229/15, Jan Mateusiak, on whether VAT has to be paid on a deemed supply of a building used only partly for business purposes. Mr Mateusiak purchased a building he used partly as his private residence and partly as his office as a notary. He deducted VAT on the part of the costs of the building that corresponded to its professional use but refused to repay that part when he ceased working and started using the house exclusively for private purposes, arguing that the 10-year period in Polish law for subsequent adjustment of the deduction had expired and therefore, such correction should not be made indirectly by taxing the part of the building in question on cessation of the activity.

Like the Polish tax authority, the Advocate-General did not agree with that interpretation.

- Opinion: [EN](#) (all EU languages available)

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