



30 May 2016

1. Ecofin meeting: country by country reporting adopted / no agreement on ATAD

On 25 May 2016, the EU Ecofin Council discussed the European Commission's Anti-Tax Avoidance Package of 28 January 2016, formally adopting the proposal including in the EU Administrative Cooperation Directive the filing of country by country reports by large multinationals to tax authorities and the automatic exchange of the reports among these. EU-based companies will already have to report from the 2016 fiscal year. Parent companies from non-EU countries have to file reports through their EU subsidiaries from the 2017 fiscal year. This measure which implements the OECD/G20 BEPS Action 13 Recommendation into EU law had already been politically agreed at the Council meeting on 8 March; the European Parliament has expressed its support on 12 May.

On the proposal for an Anti-Tax Avoidance Directive (ATAD), the Dutch Council presidency had presented a new compromise proposal but no agreement could be reached. According to press reports, the switchover clause may be dropped in the course of negotiations; ministers also agreed, upon request of the UK, to request the Commission to put forward a more comprehensive proposal on hybrid mismatches by October. The next date for reaching political agreement on the proposal will be 17 June 2016.

The Council adopted conclusions on two other parts of the Package: the two Communications on an external strategy for effective taxation, announcing a common EU methodology for blacklisting tax havens and developing measures against these, and the recommendation on tax treaty abuse and permanent establishments (PE).

Ministers agreed to draw up a common list of tax havens in 2017; criteria should be defined by September 2016, taking into account the work of the OECD Global Forum on cooperativeness of jurisdictions.

As regards treaty abuse and PE, the Council welcomed the proposed provisions with regard to a principal purpose test and permanent establishments to be included in bilateral tax treaties agreed by a member state, stressing that it also considers limitation on benefits clauses helpful.

Overall

- Press release, Outcome of the meeting: [EN](#): see ATAD on p.3
- Background briefing: [EN](#)
- EurActiv article: [EN](#)

ATAD

- Latest Dutch presidency compromise proposal dated 24 May: [EN](#) (other languages: [link](#))
- General approach: [EN](#) (other languages: [link](#))

Country by country reporting

- Amendment to Administrative Cooperation Directive: [EN](#)

Communications on external strategy for effective taxation and treaty abuse

- Council Conclusions: [EN](#)

2. CJEU rules on Belgian tax on collective investment undertakings

On 26 May 2016, the EU Court of Justice (CJEU) rendered its judgment in the Belgian case *NN (L)* (C-48/15) on the taxation of an undertaking for collective investment (UCI) from Luxembourg that marketed units in Belgium. The Court found that Belgium could impose a tax on foreign UCI, if this tax is applied in a non-discriminatory way; the country did not have to take into account taxes paid by the UCI in Luxembourg. However, Belgium cannot prohibit foreign UCIs by court decision from marketing their units in Belgium if the UCI fails to comply with the obligation to pay the tax or to file the necessary declaration within a certain time period.

- Judgment: [EN](#) (all EU languages)
- Advocate-General opinion : [EN](#) (all EU languages)

3. CJEU: Greek inheritance tax exemption for primary residence may not be limited to residents

On 26 May 2016, the CJEU issued its decision in the infringement case *Commission v. Greece* (C-244/15), confirming that Greece has breached the free movement of capital in EU and EEA law by granting an inheritance tax exemption for primary residence only to spouses and children which are EU citizens and reside in Greece.

- Judgment: [EN](#) (all EU languages)

4. CJEU: Luxembourg must issue deduction forms and give tax credit to persons receiving income from abroad

On 26 May 2016, the CJEU gave its decision in the Luxembourgish preliminary ruling case *Charles Kohll* (C-300/15) concerning a pensioner who is resident and national of Luxembourg and receives pensions from the Netherlands; he was not granted a tax credit because as a person receiving a salary or a pension not subject to deduction at source, he did not receive the required tax deduction form. This treatment was found to infringe the free movement of workers under EU law.

- Judgment: [EN](#) (all EU languages)
- Advocate-General opinion : [EN](#) (all EU languages)

5. CJEU rules on VAT exemption on the processing of payments by credit or debit card

On 26 May 2016, the CJEU delivered two judgments in UK preliminary ruling cases *National Exhibition Centre* (C-130/15) and *Bookit* (C-607/14). The Court decided that where an individual buys a ticket for a show or other event via a provider who processes the payment by debit or credit card in the name and on

behalf of another entity, the VAT exemption of transactions concerning payments and transfers does not apply to the service of that provider.

- Judgment in *National Exhibition Center*: [EN](#) (FR available)
- Judgment in *Bookit*: [EN](#) (All EU languages available)

6. EP working on report requesting new rules and sanctions for tax advisers

The European Parliament's "TAXE 2" Special Committee on tax rulings and other measures similar in nature or effect, continuing the work of its predecessor which was set up in the wake of the "Lux Leaks" revelations, is working on its (non-legislative) initiative report scheduled to be adopted on 4 July 2016. On 11 May, Dutch Social Democrat MEP Jeppe Kofod and German Liberal MEP Michael Theurer presented their draft report, the deadline for amendments will be tomorrow, 31 May. For tax professionals, the draft report demands EU-wide conflict of interest rules preventing tax advisers from advising both government and private clients, and sanctions for advisers engaged with tax havens, tax evasion or aggressive tax planning.

- Draft report: [EN](#)
- Amendment proposals will probably be linked after 31 May 2016 on this site: [EN](#)

7. Council and EP comment on VAT Action Plan

At its meeting on 25 May 2016, the Ecofin Council adopted conclusion on the Commission's VAT Action Plan Communication of 7 April 2016 mentioning the request by some member states, which reportedly include Austria and the Czech Republic, to apply a general reverse charge mechanism.

This request is supported by the European Parliament ECON Committee's draft initiative (non-legislative) report on the Action Plan presented by German Conservative MEP Werner Langen on 27 April 2016. The advisory VAT Expert Group to the European Commission has strongly opposed this idea; the Commission is not known to be in favour either.

- Council conclusion on the VAT Action Plan: [EN](#)
- Draft report by MEP Werner Langen: [All EU languages](#)

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