



24 October 2016

## 1. OECD launches tax certainty questionnaire

The OECD has launched a Business Survey inviting businesses and other stakeholders to give their views on tax certainty. The survey is available online and should only take 15-20 minutes to complete. It is strictly confidential and anonymous.

The Business Survey has been launched in response to the OECD receiving a mandate from the G20 leaders and Finance Ministers to work on solutions to support certainty in the tax system with the aim of promoting investment, trade and balanced growth. The benefits of tax certainty in promoting investment trade and balanced growth were emphasized at the recent G20 Summit at Hangshou in September.

The survey, which builds on a survey undertaken by the European Tax Policy Forum (ETPF) and the Oxford University Centre for Business Taxation (OUCBT) in early 2016 consists of five sections:

1. General, broad information on the individual respondent (whilst preserving anonymity)
2. Characteristics of the firms (size, sector and geographical location)
3. Economic factors affecting business decisions, including but not limited to taxation
4. Sources of uncertainty in the tax system
5. Measures to enhance certainty in the tax system

The survey will run from 18 October to 16 December 2016. It represents an opportunity to identify specific tax policy issues for the future G20 tax agenda and to contribute to creating practical and concrete solutions for a more certain and predictable tax system. The results of the survey will be published and presented to the G20 leaders in 2017.

The Business Survey is available at the following link: [link](#)

An online Q&A session will take place, tomorrow, Tuesday 25 October at 15.00 (CEST). To register please complete registration form available at the following link: [link](#)

## 2. Commission to publish proposed CCCTB Directive

The proposed directive on a Common Consolidated Corporate Tax Base (CCCTB) will form part of a package being presented by Commissioner Moscovici to the European Parliament tomorrow. It is expected that the details of the proposal will be outlined at a Commission press conference at 11.00 (CEST) on Wednesday 26 October. The proposed Directive will be published along with a proposed Directive on dispute resolution and a proposal for a Directive on hybrid mismatches involving third

countries which will amend the ATAD. These measures follow on from the Commission's Action Plan for Fair and Efficient Corporate Taxation which was launched in June 2015.

The relaunched CCCTB envisages an incremental approach which will firstly focus on securing a mandatory set of rules for the common base. Only when this is agreed shall work commence on the more controversial area of consolidation.

### **3. OECD launches global review of MAP programmes in an advancement of the tax certainty agenda as part of the G20/OECD BEPS project**

On 20 October 2016 the OECD released the key documents that will form the basis of the MAP peer review and monitoring process set out under Action 14 of the BEPS Action Plan. The documents and processes envisaged therein have been approved by the 84 countries which have to date joined the BEPS inclusive framework, it is these countries which will now be assessed pursuant to the program. The key documents include the Terms of reference and the Assessment Methodology for the review.

The group agreed to terms of reference that transform the BEPS minimum standards on dispute resolution into 21 items, covering:

- (1) prevention of tax treaty disputes;
- (2) availability and access to the mutual agreement program (MAP) for resolving tax treaty disputes;
- (3) resolution of MAP cases; and
- (4) implementation of MAP agreements.

The Assessment Methodology involves a two-stage review process Stage one of the review process will judge countries based upon whether they have the legal framework to apply the standards and whether the standards are applied in practice. Stage two of the review will involve an assessment of whether the countries addressed any shortcomings identified in stage one. In light of the fact that taxpayers are the primary users of the MAP, taxpayers will be asked to comment on their experiences with the countries' MAP programs for tax treaty dispute resolution in order to facilitate the effectiveness of stage two of the process.

The documents also identify twelve best practices for tax treaty dispute resolution under MAP. These were not included in the concluded BEPS Plan but are an addition as part of the review. Adherence to these standards will not affect a country's ranking.

The following is a link to the key documents: [Link](#)

### **4. OECD releases tool for implementation of Common Reporting Standard (CSR)**

On 20 October the OECD introduced a new database containing a list of the bilateral relationships that exist between jurisdictions currently subject to CSR. The introduction of the database represents a further step to implement the OECD Common Reporting Standard.

The following is a link to the database: [Link](#).

**5. ECJ decision precludes tax authorities from denying a tax exemption by reason of a failure to comply with a procedural obligation.**

On 20 October the ECJ released its decision in the German case of *Josef Plökl (Case C – 24/15)*. Following the Opinion of the Advocate General the Court held that the tax authorities of a Member State of origin is precluded from refusing to grant a VAT exemption on an intra-community transfer from VAT on the ground that the taxable person failed to provide a VAT Identification number issued by the Member State of destination in circumstances where the other conditions for the granting of the exemption were satisfied and no specific evidence of tax evasion was present.

The text of the judgment is available at the following link and also available in other languages. [Link](#)

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