CFE's Tax Top 5

Key tax news of the week

27 March 2017

1. Meeting of G20 Finance Ministers takes place in Baden Baden Germany

The G20 Ministers for Finance and Heads of the Central Banks met in Baden Baden in Germany on 18 March 2017. A communique outlining their position on the ongoing work priorities, including taxation matters was subsequently published.

The OECD Secretary-General presented a Report outlining the progress being made on key policy areas. The 4 key policy areas outlined in the OECD Report are:

i. Tax Certainty
ii. BEPS Implementation
iii. Tax transparency
iv. Tax & Development

In response to the OECD Update Report, the G20 Communique states that the G20:

- Remains committed to the timely, consistent and widespread implementation of the BEPS project, including the growing membership of the Inclusive Framework on BEPS.

- Awaits the reports of the OECD in relation to the progress of the implementation of the four minimum standards, due to be presented in July 2017 July.

- Welcomes the signing of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS on 7 June 2017.

- Welcomes the first automatic exchange of financial account information under the OECD Common Reporting Standard (CRS), which will commence in September 2017.

- Are awaiting the OECD list to be prepared at the Leaders' Summit in July 2017 setting out those jurisdictions that have not yet sufficiently progressed towards a satisfactory level of implementation of the agreed international standards on tax transparency. Crucially, it states that defensive measures will be considered against jurisdictions on the list.

Particular mention is given to the digital economy and the discussions taking place on the implications of the digitalisation of taxation in the OECD Taskforce on the Digital Economy (TFDE). It highlights that the TFDE will carry out further work on this issue with an interim report to be published from the IMF and WBG to be presented in Spring 2018.

Finally, the G20 focuses on the advancement of transparency of legal persons and legal arrangements via the effective implementation of international standards and the availability of beneficial ownership information in domestic and cross-border context. A progress report will be issued by the OECD on its work in relation to complementary tax areas relating to beneficial ownership for the Leaders' Summit in July 2017.

The communique also gives special attention to the current OECD priority of tax certainty, discussed in more detail below.

Please follow this link for The full transcript of the G20 Communiqué

Please follow this link for the full OECD SECRETARY-GENERAL REPORT TO G20 FINANCE MINISTERS

2. Tax Certainty – OECD/IMF Report submitted to G20 Finance ministers

Following on from a public consultation with stakeholders and Civil Society at the end of 2016 (which CFE submitted a response to), the OECD has published its report on tax certainty.

The main points highlighted in the Report are as follows:

? The tax system is an important factor influencing investment and location decisions, but it is not the only or most important factor.

? In particular, uncertainty around corporate income tax and VAT is considered very or extremely important in affecting investment and location decisions for more than 50% of survey respondents.

? The sources of uncertainty are varied, from tax policy and tax administration through to Taxpayer behaviour.

? The major drivers of uncertainty appear to stem from issues in connection with tax administration (including inconsistent and unpredictable implementation and administration of the tax law) and international taxation (such as ineffective dispute resolution mechanisms to resolve issues of double taxation and inconsistent approaches to the application of international tax standards).

The Report makes recommendations on some practical actions that would support greater tax certainty in the OECD and G20 countries. These actions include the following:

? Reducing complexity and improving clarity through improved tax policy design.

? Improving tax dispute prevention and resolution, at the domestic and international level, through mechanisms which are fair and independent, accessible to taxpayers and provide timely resolution.

? At the international level specifically, improvements to dispute resolution mechanisms including both Mutual Agreement Procedures and arbitration.

? Application of other, innovative tools to enhance certainty in tax administration, including cooperative compliance programmes, advance pricing agreements, as well as simultaneous and joint audits.

Overall, the report recognises that effective and appropriate measures to enhance tax certainty will differ between countries. Further, the specific environments and challenges of developing countries with respect to tax certainty could be explored, and there is also an opportunity to undertake more detailed work to understand the impact of tax uncertainty on trade and investment.

Please follow this link for a copy of the final IMF/OECD Report on Tax Certainty

3. OECD Webinar Tax Talks on Tuesday 28 March 2017

If you want to hear more on the above topics, and on the work priorities of the OECD the OECD tax policy centre will be hosting its online Webinar "Tax Talks "on Tuesday 28 March at 15:00 (CET).

The talk will summarise the OECD's progress on its primary work streams, including tax certainty, the Multi Lateral Instrument and the future work programme.

To register please follow this LINK.

4. ECOFIN Meeting in Brussels on 21 March 2017

The Council of the European Union sitting as ECOFIN discussed the following proposals in relation to VAT:

- The establishment of a generalised reverse charge mechanism in VAT

The proposal for a generalised reverse charge mechanism in VAT follows up on a request from Member states significantly affected by VAT fraud. The proposed directive offers a solution to the so-called 'missing trader' or 'carousel fraud', whereby supplies are traded several times without payment of VAT due on the transactions. Under the present rules, the reverse charge can be applied as a temporary measure only, whereas the proposed directive seeks to establish a generalised system applicable on a voluntary basis until 30 June 2022. The debate focused on the scope of the proposed directive, the criteria for obtaining a derogation, the procedures for repealing a derogation and the duration of the derogation.

- The reduction reduce the VAT rates for electronic publications.

The reduction of VAT rates for electronic publications concerns amendment of Directive 2006/112/EC to allow for 'super-reduced' rates for e-publications that would go down to zero. The proposal is part of European Commission's Digital Single Market plan.

The discussion focused on the possibility of applying not just 'reduced' VAT rates but also a 'super-reduced' VAT rate and 'zero' VAT rates. Such treatment would bring the VAT rates associated with electronic publications in line with traditional 'hard copy' publications.

Both directives require unanimity in the Council vote on the basis of Article 113 on the Treaty of the Functioning of the European Union.

5. CFE's annual Forum promises to be a day of topical discussion and debate on Permanent and Fixed Establishments

Expert panels, with highly accomplished speakers from a mix of the OECD, academia and industry will be discussing the highly topical issue of PE status and also the new profit attribution rules in a post BEPS era.

We consider the new rules for determining whether a business has sufficient commercial activities in a particular country to acquire a PE status and the profit attribution rules associated with this.

An expert panel will also tackle the subject from the indirect tax perspective, examining the VAT concept of fixed establishments and the difficulties encountered when determining whether a supplier or customer has a Fixed Establishment in a particular country, and also the practical problems caused for business in a VAT context from the classification of PE status.

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