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CFE's Tax Top 5
Key tax news of the week

03 April 2017

European Commission confirms upgrade of its Task Force Tax Planning Practices

The European Commission has upgraded the Task Force Tax Planning Practices into a new Unit within the Directorate General Competition, the deputy Director General for State aid Gert-Jan Koopman confirmed for Bloomberg. European Commission's Task Force led by Max Lienemeyer is responsible for the State aid investigations into tax rulings and aggressive tax planning practices that might be in contravention to European Union law. The Commission has to date adopted decisions for recovery of tax in the cases of Apple (Ireland), Starbucks (The Netherlands), Fiat Finance (Luxembourg) and the Belgian Excess Profit ruling scheme. These decisions are under appeal at the Court of Justice of the European Union as final arbiter on the legality of European Commission's decisions, which does not however prevent recovery of the assessed tax. Cases in the pipeline include Amazon, McDonald's, and the most recent one - Engie (*GDF Suez*).

Gert-Jan Koopman speaking in Paris confirmed that the Task Force Tax Planning Practices set up in 2013 is now a permanent Unit within the Directorate General for Competition. Koopman also held that the team of case-handlers is being assisted by a second Unit on fiscal State aid, which is also looking into the tax cases from a State aid perspective. The deputy Director General said that the European Union investigations into multinational companies' tax planning arrangements have been a reason for 'rude awakening' for tax and transfer- pricing specialists. Koopman also pointed out that the European Commission has since provided guidance to governments and companies as to the State aid compliance of the transfer-pricing arrangements and tax rulings in general.

The European Commission published in June 2016 a Working Paper on the applicability of Article 107(1) of the Treaty on the Functioning of the European Union to tax ruling practices. Specifically, the paper provides for clarification as to the applicability of the 'arm's length principle' to tax rulings from a State aid perspective.

CJEU Forthcoming: AG Wathelet Opinion in C-616/15 *Commission v Germany* (VAT)

According to the judicial calendar of the Court of Justice of the EU, Advocate General Wathelet will issue on Wednesday 5 April 2017 an Opinion in the case C-616/15 *European Commission v Germany.* This VAT case concerns restriction on VAT exemption for certain groups of professions (notably reserved for certain professions only in Germany), which according to the European Commission is in breach of Article 132(1)(f) of the Directive 2006/112/EC ('VAT Directive'). The Commission maintains that there is no justification for these restrictions; therefore the exemption from VAT should apply to all groups of professions provided they exercise tax-exempted activities.

The European Parliament sits in Strasbourg this week

The European Parliament is holding the next plenary session in Strasbourg. The agenda includes a meeting on Thursday 6 April 2017 of the European Parliament 'PANA' Committee of Inquiry into contraventions in EU law and tax evasion and avoidance practices stemming from the Panama Papers revelations.

OECD published report on technology tools to tackle evasion and fraud

The OECD published on 31 March the *Technology Tools to Tackle Evasion and Tax Fraud* report. The report, presented in Paris by Grace Perez-Navarro, deputy Director of the OECD's Centre for Tax Policy and Administration, demonstrates the possibilities in which technology can be used by governments in the fight to prevent and identify tax fraud and evasion.

According to the OECD, the solutions offer win-win scenario: better detection of crime, higher revenue contributions, and synergies that make tax compliance easier for business and tax administrations.

Further reduction in corporation tax comes into effect in the UK

Her Majesty's Treasury, the United Kingdom Finance Ministry, announced that their plan to reduce UK corporation tax to 19% comes into effect from 1 April 2017. According to the UK Government, the UK plans to reduce the corporation tax rate further to 17% by 2020, which will then be the lowest tax rate among the G20 countries. The new reduction amounts to £9 billion cut in overall burden for businesses.

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