CFE's Tax Top 5

Key tax news of the week

Brussels, 18 September 2017

1. Digital Economy – focus of informal ECOFIN over weekend.

Estonian Presidency position

The challenges posed by the digital economy to fair taxation in the EU took centre stage at the informal ECOFIN meeting in Estonia on 15 & 16 September.

The Estonian Presidency highlighted that the current tax rules are out of date and in need of reform to aptly deal with the digital economy. In this regard whilst stating that a global resolution is the best solution in the long term, a common solution encompassing all the Member States in Europe is very important in the short to medium term, suggesting that the EU model could mould the global solution in the future "*If we can agree on the approach inside the European Union, then we can also affect the global rules in a way that is favourable to us*".

Changes to definition of permanent establishment

In terms of a solution, the Estonian Presidency proposes changes to the definition of permanent establishment so as to

> "*Abandon **the requirement that companies have to be physically present** in a country or own assets there, and replace this with the **concept of a virtual permanent establishment.** A precondition for this is a more precise agreement on the virtual taxpayers who have to start paying taxes.*"

After the meeting the Estonian Finance Minister stated that more than half of the Member States are in favour of the changes to rules on permanent establishment.

Proposed Equalisation Tax

In addition to changes to permanent establishment rules, the proposed equalisation tax was also discussed at the meeting. The equalisation tax will seek to tax turnover of companies rather than profit as is traditionally the case. It is being proposed as a stop-gap measure which would be removed once a comprehensive international solution is finalised to ensure fair taxation of such multinational entities.

Finance Ministers from Austria, Bulgaria, Greece, Romania, Slovenia, and Portugal have added their names to the letter signed by the G4 countries last week calling for discussion on an equalisation tax. It is reported that whilst the Netherlands and Belgium are publicly supporting the initiative, Ireland, Malta, Cyprus are the strongest opponents with Denmark, and Luxembourg expressing strong reservations.

Use of Enhanced Cooperation

The Presidency accepted that there may be obstacles to finding unanimous agreement and in such circumstances the proposals would proceed by means of enhanced cooperation. Nine Member States are needed to agree to begin proceedures by way of enhanced cooperation.

The Letter of the G4 proposing the introduction of an Equalisation Tax

The Estonian Presidency Press Release for the Informal ECOFIN Meeting

2. EU Commission due to publish paper on fair taxation of the digital economy this week

On foot of the discussions at Council on the digital economy, the European Commission is expected to publish a policy paper which will set out the low tax contribution of large technology companies and the manner in which their activities can elude traditional systems of taxation.

The proposals are due to be published this week, and will contain suggested solutions before the next formal ECOFIN meeting of Council on 29 September 2017.

It is hoped that agreement will be reached by Council regarding the Commission proposals at the December ECOFIN meeting of Council but as set out above, the Estonian Presidency has indicated that it is willing to proceed by enhanced coo-operation if a unanimous position is not reached.

3. Pascal Saint-Amans addresses proposed 'Equalisation Tax' on OECD Webinar

The Director of the OECD Centre for Tax Policy, Pascal Saint-Amans, said he would not criticise the proposed Equalisation Tax initiative being spear headed by France, Germany, Italy and Spain and now supported by 10 EU Member States.

Speaking on an OECD Webinar, he stated that other countries such as India have already taken action to tackle problems with fair taxation of the digital economy, with Indonesia and Malaysia considering measures.

On the topic of an international solution, he stated that given the complexity of the topic, any broad international solution will require time. In addition, he highlighted the need for all countries to cooperate and be willing to negotiate.

He highlighted changes to the definition of permanent establishment and the transfer pricing rules relating the allocation of profits to PE as areas in need of examination and modernisation.

4. EU Commission President, Jean-Claude Juncker issues State of the Union

On 18 September the EU Commission President issued his State of the Union Address. From a tax perspective the two salient points which arose were:

? An EU Minister of Economy & Finance; and

? Removing the unanimity requirement for decisions on taxation matters, in favour of a qualified majority. Mr. Juncker blames the veto power in tax matters for blocking necessary overhauls of tax legislation in order to tackle abusive tax practices. At present Member States have the power to veto proposed tax legislation in keeping with the sovereign nature of taxation. The Irish Minister for Finance has responded by stating that Ireland will resist any such proposal to allow for a qualified majority in tax matters.

5. CFE General Assembly, Committee Meetings and Events in Bratislava 21 – 23 September 2017

This week the CFE and the Slovak Chambers of Tax Advisers (SKDP) will host CFE's autumn meetings and events in Bratislava from 21 – 23 September.

The Professional Affairs Committee and the Executive Board meet on 21 September, the Fiscal Committee meetings take place on 21 and 22 September and the General Assembly on 22 September. Further information for delegates is available on the following link.

*****

The selection of the remitted material has been prepared by
Aleksandar Ivanovski / Mary Dineen / Filipa Correia / Piergiorgio Valente

Follow CFE on LinkedIn *and Twitter*