



Brussels, 20 November 2017

### **1. European Commission publishes preliminary State Aid decision on U.K. CFC regime.**

The European Commission published its [Preliminary State Aid Decision](#) as part of the investigation into the U.K.'s Controlled Foreign Company (CFC) legislation and whether it is in contravention of EU state aid rules. The investigation was announced on 26 October 2017.

Specifically, the European Commission is looking into UK's group financing exemption for certain financing income (i.e. loan interest payments) that are exempt from the remit of the CFC rules.

The Commission investigation focuses on a legislative scheme regarding a Group Financing Exemption introduced by the UK's Finance Act 2012 and effective from 1 January 2013. This scheme exempts from UK corporate taxation financing income received by an off-shore subsidiary from another foreign group company, which allows a UK based multinational company to provide for financing to a CFC group member via an offshore shell without taxing this income. In the absence of the Group Financing Exemption, interest income paid on loans to subsidiaries when that interest is paid into an off-shore jurisdiction would have been subject to tax.

The UK would ordinarily be able to tax such interest income, as the CFC rules would catch it by disregarding the offshore company and allocating such income to the UK parent. This possibility provided with the UK Group Financing Exemption, according to the EU Commission, is providing for selective advantage to multinational group companies when compared with other UK resident entities that do not operate cross-border. According to ECJ settled case-law, national anti-abuse provisions must not be selective and must be compliant with the State aid rules still. The Commission rely on the interpretation of the UK general corporate tax as reference system, under which standalone and multinational group companies are in a comparable factual and legal situation for purposes of corporate tax as per the *Paint-Graphos* case-law.

### **2. The 10<sup>th</sup> Meeting of the OECD Global Forum on Transparency & Exchange of Information for tax purposes takes place in Cameroon**

The Global Forum, which now has 147 members adopted the first report on the status of implementation of the AEOI Standard. The Report follows the beginning of exchanges of information between 50 jurisdictions under the new standard on automatic exchange of information, with a further 53 countries set to commence exchanges in September 2018. The principle of annual implementation reports and peer reviews were agreed at the meeting to ensure effective implementation and a level playing field.

Peer reviews of Curaco, Denmark, India, Isle of Man, Italy and Jersey were also published at the meeting, bringing to 16 the number of second round peer reviews carried out by the Forum based on its international standard of transparency and exchange of financial account information on request.

### **3. Commissioner Pierre Moscovici addresses European Parliament**

Commissioner Moscovici addressed the plenary hearing of the European Parliament on 14 November at Strasburg to address the information on tax avoidance schemes which has recently come to light as part of the so-called 'Paradise Papers'. In his address he highlighted a number of legislation initiatives of the European Commission aimed at clamping down on aggressive tax planning practices. Commission Moscovici identified the following legislative initiatives as being imperative in this regard:

- The **Tax Intermediaries Directive**, which he hopes will be adopted within 6 months;
- The **EU Blacklist** of tax havens, which he urged Member States to agree at the next meeting of ECOFIN on 5 December;
- The **CCCTB** proposals which would ensure a convergence of tax rules limiting opportunity for aggressive tax planning practices. He urged for more speedy discussions in relation to this and encouraged agreement in 2018.

The Commissioner also urged for progress on the Commission's proposals to publicly disclose beneficial ownership of companies under the Money Laundering Directive and for mandatory country-by-country public reporting.

### **4. Jersey assessing introduction of a substance rule in light of Paradise Papers investigation**

On November 8, following the release of the Paradise Papers, the government of Jersey stated that it intended to consider the introduction of a "substance test" in the context of foreign registered companies claiming tax residency in the State. It further stated that it does not want abusive tax avoidance schemes operating in Jersey.

### **5. CFE Conference 'Tax is Going Digital- Are Tax Advisers Ready?' on 24 November in Prague, Czech Republic**

CFE, the European association of tax advisers, and the Czech Chamber of Tax Advisers (KDPČR) are delighted to invite you to the 10th Professional Affairs Conference 'Tax is Going Digital – Are Tax Advisers Ready?'.  
[Link](#)

We hope that you will join us on 24 November 2017 in Prague, the Czech Republic as we discuss digitalisation of tax services, opportunities for the tax profession arising therefrom and the evolution of artificial intelligence. Please follow this [link](#) for further information on the programme, registration, accommodation and social programme details.

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

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