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CFE's Tax Top 5

Key tax news of the week

Brussels, 30 April 2018

EU Finance Ministers Discuss Corporate Tax Reform in Sofia

The Bulgarian EU presidency organised an informal meeting in Sofia on 27 and 28 April, where the EU finance ministers discussed a renewed approach for corporate taxation in the Single Market and the tax challenges of the digital economy. At the Working Session III, the Presidency set out the perspective for reform of EU's corporate tax system in light of the recent shifts in the international tax landscape, in particular the US tax reform. Ministers considered corporate tax policy reform that will ensure competitiveness, firmness and sustainable revenue streams for the EU member states.

As a corollary, the Bulgarian EU Presidency set out a plan to evaluate the impact of the proposals for CCTB on Member states' tax revenues. The impact evaluation will be performed in the course of 2018 with assistance from Commission's technical services.

With regard to the digital tax proposals, the Presidency will establish a roadmap for further technical work at Council working party group, aiming to revisit the issue at high political level in June 2018 after the setback of this weekend.

Following the meetings in Sofia, the UK Chancellor of the Exchequer Philip Hammond stated that the United Kingdom favours a globally accepted solution for the tax challenges of the digital economy agreed at OECD level— rather than an interim EU tax. The new German finance minister has also expressed reservations on going forward with taxation of turnover rather than tax on profits as a matter of principle. The UK and Germany have thus joined countries like Ireland and Luxembourg who have expressed doubts about EU Commission proposals of last month fearing retaliation from the United States.

Ireland and Apple set up State Aid Recovery Fund

The Irish Finance Minister Paschal Donohoe has confirmed that the Escrow Framework Deed was signed by Ireland and Apple on Tuesday the 24th May. The deed sets out the detailed legal agreement regarding the recovery of €13bn of assessed back taxes by the European Commission in its State aid decision of August 2016. The signing of the Escrow Framework Deed activates the recovery process and, as a consequence, the assessed back taxes will be paid in tranches into the Escrow Fund, with full recovery expected to be effectuated by September 2018.

This is the largest ever fund to be established in the European Union for purposes of recovery of State aid as assessed back taxes by the European Commission. The London branch of Bank of New York Mellon was selected as provider of escrow agency and custodian services whilst Amundi, BlackRock Investment Management (UK) Limited and Goldman Sachs Asset

Management International for the investment management services. The funds will be invested by these international asset managers to ensure a financial return for Apple in the event of successful outcome of the EU court litigation.

The case is under appeal at the General Court from both the Irish Government as addressee of the Commission decision, and Apple, as alleged State aid beneficiary. A telephone conversation also took place last week between Margrethe Vestager, the EU Competition Commissioner who is responsible for the Apple case at political level, and the Irish Finance minister.

EU Commission Publishes Company Law Reform Proposals

The European Commission published proposals on reforming and digitalising EU company law in order to make it easier for companies to reorganise - merge, divide or move within the EU Single Market. Further, the proposals seek to prevent tax avoidance practices that rely on artificial arrangements.

EU Commission First Vice-President Frans Timmermans stated: *"In our thriving EU Single Market, companies have the freedom to move and grow. But this needs to happen in a fair way. Today's proposal puts in place clear procedures for companies, with strong safeguards to protect employees' rights and, for the first time, to prevent artificial arrangements aiming at tax avoidance and other abuses."*

The package comprises of two proposals, amending the existing rules on the cross-border conversions, mergers and divisions, and the latter adapting company law to the digital era.

- Proposed Directive on cross-border conversions, mergers and divisions

The proposal envisages common EU rules for cross-border conversions and divisions aiming to update existing ones on cross-border mergers. One of Commission's policy objectives with this proposal is to increase the cross-border accessibility to company-related information that will help ensuring fair taxation where profits are generated. The safeguards against abuse of the conversion and division procedures to create artificial arrangements aimed at obtaining undue tax advantages will aim to complement EU's recent anti-tax avoidance directives. Further, the proposal sets out safeguards for employee rights including the establishment of artificial arrangements for tax avoidance purposes.

- Proposed Directive on the use of digital tools and processes in company law

The proposal sets out simpler rules for companies to be able to set up branches and file documents in a digital format throughout the European Union. The 'once-only' principle guarantees that according to EU law companies will not have to file the same documents in different EU member states. This proposal for digitalisation of EU company law, according to the European Commission, will reduce both the cost and the compliance burden for doing business the EU.

OECD Publishes Annual Tax Wedge Data

The OECD published on 26 April the [annual flagship publication] on taxes paid on salaries in the OECD countries. The report analyses the personal income taxes and social security contributions paid by employees, social security contributions and payroll taxes paid by employers.

The publication illustrates the average and marginal effective tax rates on labour costs for eight different household types, which vary by income level and household composition (single persons, single parents, one or two earner couples with or without children). The average tax rates measure the part of gross wage earnings or labour costs taken in tax and social security contributions, both before and after cash benefits, and the marginal tax rates the part of a small increase of gross earnings or labour costs that is paid in these levies.

CFE Forum Recap: *Fair Taxation of the Digital Economy* 19 April 2018

CFE Tax Advisers Europe held its flagship international tax conference, the annual Forum in Brussels on 19 April 2019, this year entitled 'Fair Taxation of the Digital Economy.' The conference day kicked-off with a German view on digital taxation presented by Lutz Lienenkämper MdL, the Finance Minister of the State of North-Rhine Westphalia.

Three expert panels with speakers from the EU Commission, OECD, academia, practice and business analysed and debated the issue of fair taxation of the digital economy. The Forum discussions focussed in particular on the European Commission proposals for taxation of the digital economy in the Single Market and Recommendation on amending Member States' double tax treaties with third countries. The Forum speakers also evaluated the OECD's Interim Report on the Taxation of the Digital Economy, and the implications of taxing the digital economy from both a direct and indirect tax perspective.

Please follow this LINK for a recap of the conference day.

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

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