BRUSSELS I 10 SEPTEMBER 2018

Austrian Presidency: Progress on EU Digital Services Tax

The informal ECOFIN Council meeting of this weekend saw progress in the discussions on EU proposals for fair taxation of the digital economy. The Austrian Finance Minister, Hartwig Löger, at present holding the EU presidency of the Council, said that it was realistic to reach an agreement by the end of this year. Speaking at the end of the second day of the informal ECOFIN in Vienna, the Austrian Finance minister confirmed that France and Germany have both accepted that the EU Commission proposal needs to include a 'sunset clause', under which a digital services tax would be a temporary levy valid until an agreement has been reached at international level.

"There was broad support in the Council especially for preparing further measures against no-tax and low-tax systems. We want to make sure that the profit of big companies is taxed in a fair way and that there is an increase in the resulting revenue", said Mr Löger. The Austrian Finance Minister confirmed that the EU Member states will seek to arrive at a position which is aligned with the OECD proposals on the matter.

EU Commission Publish *ENGIE* State Aid Tax Decision

The EU Commission published on 4 September the non-confidential version of the final decision adopted on 20 June 2018 concluding that Luxembourg granted tax benefits to Engie of around €120 million, contrary to the EU State aid rules.

In this case, the EU Commission is challenging two tax rulings issued by the Luxembourg tax authorities to GDF Suez Group (currently Engie) in 2008 and 2010. Both rulings concern tax treatment of intra-group interest-free mandatorily convertible loans, i.e. loans allowing the lender to become shareholder of the borrower upon conversion. According to the rulings in question, the borrowing companies were taxed on a fixed margin while the difference between their profits and the fixed margin were considered deductible expense.

The Commission is challenging such deductibility, highlighting that the aforementioned loans are equity rather than debt instruments. Furthermore it is challenging the agreed non-taxation of the deductible amounts at ultimate owner level.

3. OECD: Average CIT rate has dropped from 32.5% in 2000 to 23.9% in 2018

The OECD has published the third edition of its 'Tax Policy Reforms 2018' publication, which covers the latest tax policy reforms in all OECD countries, as well as in Argentina, Indonesia and South Africa. The report highlights the trend toward reduction of corporate income tax rate (CIT), which, according to the OECD, has been largely driven by "reforms in a number of large countries with traditionally high corporate tax rates". The average corporate income tax rate across the OECD has dropped from 32.5% in 2000 to 23.9% in 2018.

"Among the countries that introduced significant corporate tax reforms were a number with high corporate tax rates, where tax reform was long overdue," said Pascal Saint-Amans, director of the OECD Centre for Tax Policy and Administration. "While these corporate tax cuts have created some concerns of a 'race to the bottom,' most of these countries appear to be engaged in a 'race to the average,' with their recent corporate tax rate cuts now placing them in the middle of the pack".

4. Austria: EU's Financial Transaction Tax on Wrong Track

Speaking for Bloomberg, Austria's Finance Minister said that the EU financial transaction tax plans are "headed in the wrong direction and need to change course or be scrapped".

The EU Commission proposal on Financial Transactions Tax came about in 2010, largely seen as an industry contribution related to the financial crisis of 2009. Faced with opposition, a group of Member states led by Germany and France continued with the proposal under the enhanced cooperation procedure, effectively bypassing the EU unanimity requirement for legislating in taxation matters.

The Austrian Presidency remains sceptical: "During years of debate, the scope of the proposed levy has been scaled back so much that it isn't worth the effort anymore", Mr Löger said. "The broad tax base we had initially was repeatedly reduced in the course of the debate.", said the Austrian Finance Minister.

5. OECD and Norway Agree Developing Countries Partnership

OECD and the Norwegian Ministry of International Development have agreed a package of NOK 45 million (approximately EUR 4.6 million) over 4 years, starting in 2019 aimed at helping developing countries address their taxation challenges. The package will focus on implementing BEPS-related agreed outcomes, exchange of information on tax fraud and financial crimes and administrative cooperation.