BRUSSELS I 26 NOVEMBER 2018

1. EU27 Leaders Endorse Brexit Withdrawal Agreement

At the special EU summit meeting which took place on 25 November the leaders of the EU27 endorsed the Brexit Withdrawal Agreement and a political declaration on future EU-UK relations.

Key tax policy commitments contained in the withdrawal agreement include commitments for the UK to continue to apply the EU's tax good governance standards, the Code of Conduct for business taxation, the provisions of domestic law that give effect to DAC (including DAC6 once transposed) & ATAD. Additionally, the withdrawal agreement includes commitments by the UK to be subject to the joint surveillance powers of DG COMP and the UK Competition Authority to ensure consistency on State aid matters throughout the "Single Customs Territory". The political declaration sets out further intentions concerning the single customs territory, including intentions to ensure there are no tariffs which would create barriers to trade, to ensure freedom of movement of capital and investment, and to create a level playing field for open and fair competition.

Speaking after the summit meeting, Donald Tusk said “ahead of us is the difficult process of ratification as well as further negotiations. But regardless of how it will all end, one thing is certain: we remain friends until the end of days, and one day longer”. The UK parliament is expected to vote on the deal on 12 December.

2. OECD Releases Report on Automatic Exchange of Information

The OECD’s Global Forum on Transparency and Exchange of Information for Tax Purposes have released a report concerning the implementation of Automatic Exchange of Information, The report was released at its annual meeting which took place on 20-22 November in Uruguay.

Over 4,500 bilateral exchanges of information have taken place between 86 jurisdictions, in line with the Automatic Exchange of Information standards, with the exchange containing information concerning financial accounts taxpayers hold outside their jurisdictions.

The OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes also adopted Terms of Reference for reviews that will take place to assess the effectiveness of the exchange standards in practice, as well as a work plan for the review process. The reviews will commence in 2020.

3. EU VAT Committee Publishes Updated Guidelines

The EU VAT Committee has now published updated guidelines in relation to interpretative matters considered at its 110th meeting, which took place in April 2018.

The updated guidelines set out the Committee's view as to the correct interpretation of Article 2(1)(c) and Article 135(1)(c) of the VAT Directive concerning the VAT treatment of certain services provided in relation to syndicated loans.

Guidelines published by the EU VAT Committee are not legally binding on the Member States or European Commission, however can be adopted by the European Council into binding implementing measures which then become directly applicable without transposition into national law.

4. European Commission Publishes Autumn Semester Report

The European Commission has published its Autumn Report package, which includes the so-called Alert Mechanism Report, which proposes in-depth reviews for Member States which are identified as having macroeconomic imbalances.

The Member States which will be subject to the in-depth reviews in 2019 are Bulgaria, Croatia, Cyprus, France, Germany, Greece, Ireland, Italy, the Netherlands, Portugal, Romania, Spain and Sweden. The reviews will form part of the Country Reports to be published in early 2019.

The annual growth survey which forms part of the Autumn Report indicates that the European Union and all Euro economies have enjoyed 22 successive quarters of increased growth, and 2019 is predicted to be the first year since 2007 where all European countries will see increased investment. The Juncker Plan will trigger close to 360 billion Euro in investments.

5. OECD Issues Updated Residence/Citizenship by Investment Guidance

The OECD has published updated guidance concerning residence/citizenship by investment in relation to Residence by Investment programmes offered by Panama.

In accordance with Common Reporting Standards, Panama will need to ensure that documents are identified as having been issued to successful applicants under its Reforestations Investor Permit, Economic Solvency Permit and Friendly Nations Permit residence by investment programmes. The guidance has been updated to state that only this documentation should be perceived as high-risk for CRS due diligence procedures. Financial institutions are in those cases encouraged to use enhanced due diligence procedures to ensure the CRS is not being circumvented.