BRUSSELS | JUNE 2021

G7 Reach Historic Minimum Global Corporate Taxation Rate Agreement

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Finance Ministers from the G7 nations of Canada, France, Germany, Italy, Japan, the UK and the US reached a landmark decision to agree standards for minimum corporate taxation rates at their meeting which took place in London from 5 to 6 June. The Ministers from the G7 nations were joined by the Heads of the International Monetary Fund, World Bank Group, Organisation for Economic Cooperation and Development, Eurogroup, and Financial Stability Board.

The G7 Ministers, as set out in their Communiqué, agreed to a global minimum corporate tax rate of 15% on a country-by-country basis, and to allocate taxing rights where profits in a market jurisdictions exceed a 10% margin. Jurisdictions

allocated taxing rights under the agreement would be entitled to tax 20% of the profits, at a minimum. The agreement also provides for the *"coordination between the application of the new international tax rules and the removal of all Digital Services Taxes, and other relevant measures, on all companies."*

US Secretary of the Treasury, Janet Yellen, stated of the agreement *"The G7 Finance Ministers have made a significant, unprecedented commitment today that provides tremendous momentum towards achieving a robust global minimum tax at a rate of at least 15%. That global minimum tax would end the race-to-the-bottom in corporate taxation, and ensure fairness for the middle class and working people in the U.S. and around the world. The global minimum tax would also help the global economy thrive, by leveling the playing field for businesses and encouraging countries to compete on positive bases, such as educating and training our work forces and investing in research and development and infrastructure."*

Olaf Scholz, German Finance Minister, stated "*The seven most important industrial nations have today backed the concept of minimum taxation for companies. That is very good news for tax justice and solidarity and bad news for tax havens around the world."* However, French Finance Minister Bruno Le Maire called the agreement *"a starting point and in the coming months we will fight to ensure that this minimum corporate tax rate is as high as possible."* Critics of the deal argue that agreeing a minimum tax rate of 15%, down from the 21% proposed by US President Biden, would not result in significant changes in practice. Oxfam said of the agreement, *"It's absurd for the G7 to claim it is 'overhauling' a broken global tax system by setting up a global minimum corporate tax rate that is similar to the soft rates charged by tax havens like Ireland, Switzerland and Singapore. They are setting the bar so low that companies can just step over it."*

Irish Finance Minister Paschal Donohoe commented of the agreement that *"It is in everyone's interest to achieve a sustainable, ambitious and equitable agreement on the international tax architecture...There are 139 countries at the table, and any agreement will have to meet the needs of small and large countries, developed and developing."* The G7 in their Communiqué also noted the importance of the upcoming July meeting of G20 Finance Ministers and Central Bank Governors in reaching agreement on the OECD Two-Pillar solution.

CFE Discussion Paper: "If It Is Legal, Is It Acceptable?" - An Ethics Quality Bar for All Advisers

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Against the backdrop of recent actions by governments and lawmakers, such as the G7 agreement on minimal global corporation tax and anti-tax avoidance initiatives of the EU, CFE has issued a discussion paper founded on its commitment to high professional standards in tax advice seeking to promote ethical professional judgment across all tax advisers in Europe. While tax advisers play a valuable role in the proper functioning of tax systems, this role can be undermined by the promotion of abusive tax arrangements within legal parameters.

“If it is legal, is it acceptable?” is the central ethical question which inspired this paper. It is distinct from criminal tax evasion – breaking the law – which CFE unequivocally condemns. The question comes down to whether there is manipulation and artificiality in tax planning. CFE has issued this paper to stimulate discussion on how to tackle this problem among all who have an interest in how our tax systems function in Europe, not just tax specialists. We are actively seeking stakeholder feedback.

Setting an Ethics Quality Bar

This paper is focused on the future, noting that tax systems will play a key role in repairing the strained public finance conditions after the COVID-19 pandemic, as well as the growing transformational impact of technology on tax services and tax administration overall. The principal objective of the paper is to seek feedback on a proposed “ethics quality bar” based on five questions that all tax advisers should reflect on when undertaking their advisory role in the overall tax system.

CFE seeks views on whether the questions can help to steer all advisers in the direction of an appropriate balance between the rights and obligations of taxpayers, avoiding abusive planning. To that end, a series of stakeholder events will be announced in due course.

EU Taxation Trends: Stable Tax Revenues, Falls Expected

The European Commission has published a report setting out the taxation trends in the European Union. The report indicates stable tax revenues across Member states, standing at 40.1% of gross domestic product (GDP) in 2019. Taxation of work (labour) provides the largest share of revenues standing at total of 20.7 % of the European GDP. The tax wedge for low earners continued its downward trend in 2020, with a significant cumulative decrease since 2012. The European Commission expects a 4% fall in revenues for Member states for 2020 and beyond, depending on the pace of the post-pandemic recovery of the European economies.

Platform for the Collaboration on Tax Workshop on the Role of Taxation in Achieving Gender Equality

The Platform for the Collaboration on Tax will be holding a workshop on 15 June on the role of taxation in achieving gender equality. Experts from PCT Partners (IMF, OECD, UN and World Bank), governments, think tanks, academia, and civil society will discuss how tax policy and tax and customs administrations can affect gender equality, especially in the context of the COVID-19 pandemic, explore advances in data collection and methodology and delve into the possibility of incorporating gender equality initiatives in tax reforms.

CFE and the Global Tax Advisers Platform (GTAP) strongly advocate for policy makers to integrate the gender element into tax policy, in particular by reference to the potential of increased tax morale. In a statement of May 2019, we endorsed the UN- led projects that have recently promoted the awareness of gender mainstreaming in the field of public finance management through its gender responsive taxation and budgeting initiatives. By promoting gender-neutral distribution of resources and raising of revenues, governments contribute to more equitable societies and more opportunities for all. CFE and GTAP wholly endorse gender-responsive policies as a means for improving the perception of fairness and establishing fiscal equality among all citizens, regardless of gender.

EU Launch Consultation on Fighting the Use of Shell Entities for Tax Purposes

The European Commission has launched a public consultation questionnaire on tax avoidance and fighting the use of shell entities for tax purposes. The questionnaire responses will be used to prepare a proposal for a directive planned to be published in the last quarter of 2021. The Inception Impact Assessment concerning the proposed initiative sets out that the Commission

aims to address *"the use of legal entities with no or minimum substance and no real economic activities, by taxpayers operating cross-border to reduce their tax liability."* The directive will aim to establish minimum standards on tax related substance to decide whether entities in a Member State are deemed shell entities and, if so, to deny them tax advantages in the Member State in order to tackle the erosion of the tax base of the Member States by tax avoidance and evasion.

The Inception Impact Assessment refers to recent Le Monde investigations published in early 2021 which highlighted the lack of EU legislative measures which define substance requirements for tax purposes to be met by entities within the EU, and the pressing need identified by the public to act concerning this deficiency. The document sets out that as part of its policy considerations relating to the proposed directive, the Commission will consider:

1. Current national practices and legislation (where existing) providing for anti-tax avoidance rules, including those deriving from the transposition of existing EU rules (e.g. the Anti-Tax Avoidance Directive – ATAD);
2. To what extent the existing (e.g. the Code of Conduct on Business Taxation) or new soft-law instruments may eventually achieve the objectives;
3. Whether a directive that defines new tax related substance requirements and new mechanisms is needed;
4. Possible new substance requirements and indicators of “real economic activity” for the purpose of taxation rules;
5. Options for enhanced cooperation, monitoring and enforcement of the new rules will equally be explored, including enhanced cooperation and monitoring of the existing legislation in the field of taxation, for legal entities and arrangements operating in the EU.

The public consultation questionnaire raises questions related to the above points. The consultation will run until 27 August, and responses to the questionnaire and any additional comments on the questionnaire can be submitted via the Have Your Say portal.

EU Tax Observatory to Identify Means to Combat Tax Avoidance in the EU

The EU Tax Observatory, a European Union project with a EU grant budget of EUR 1.2 million, is aimed at identifying and analysing means of combatting tax avoidance practices, and supporting the fight against tax abuse through academic research, analysis and data sharing. The EU Tax Observatory was launched on 1 June by Commissioner Gentiloni, FISC Chair Paul Tang and other EU officials, will be led by Professor Gabriel Zucman, and based at the Paris School of Economics. Professor Zucman is a French economist, currently an Associate Professor of Economics at the University of California, Berkeley, and is known for research on tax havens and corporate tax havens, and the accumulation, distribution, and taxation of global wealth.

The launch of the Tax Observatory was one of the planned actions contained in the Commission's 2020 Tax Package, to tackle the fight against tax evasion and avoidance and to promote fairer taxation in the EU and beyond. The Tax Observatory's research will complement the Commission's reflection process on the future of taxation in the EU, which will conclude in a Tax Symposium on the "EU tax mix on the road to 2050" in 2022. A report issued by the Tax Observatory at the launch sets out simulations for amounts that could be collected in tax revenues based on taxing multinational companies, under three scenarios: the EU imposing minimum corporate taxation, an international minimum taxation, and unilateral taxation. The report estimates that 25%

minimum tax would increase corporate income tax revenues in the European Union by about €170 billion in 2021.

Paolo Gentiloni, Commissioner for Economy, said of the newly established Observatory: *“Today more than ever, we need to clamp down on tax abuse. It's vital that we protect the public revenues necessary to support the recovery and the massive investments needed for the green and digital transitions. I count on the European Tax Observatory to conduct research of the highest level, to bring forward innovative ideas and to promote an inclusive and pluralistic debate on taxation policies across the EU.*”

Global Forum Publishes Peer-Review Reports on EOIR

The OECD's Global Forum on Tax Transparency has published a new set of peer review reports assessing the legal and regulatory framework against the international standard on transparency and exchange of information on request (EOIR) for Antigua and Barbuda, Argentina, the Russian Federation, South Africa and Ukraine. Key findings and recommendations are available on OECD's dedicated website.

EU Council & Parliament Reach Provisional Compromise on CbCR Public Disclosure

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Representatives of the current Council of the EU Presidency from Portugal reached a provisional agreement with the EU Parliament negotiating team on the proposed directive on public country-by-country reporting of tax information disclosure (CbCR). Under the agreement, MNEs or standalone enterprises with a total consolidated revenue of more than €750 million in the last two

consecutive financial years will be required to disclose publicly their income tax information in each Member State, whether headquartered in the EU or not. Additionally, the enterprises will be required to disclose income tax information from any third country listed in the EU Blacklist and Greylist of non-cooperative jurisdictions for tax purposes. Reporting will be required to take place within 12 months from the date of balance sheets for financial years in questions. The directive will provide for a complete and final list of information required to be disclosed.

Pedro Siza Vieira, Portuguese Minister of State for the Economy and Digital Transition, said of the provisional agreement,*"Corporate tax avoidance and aggressive tax-planning by big multinational companies are believed to deprive EU countries of more than 50 billion euros of revenue per year. Such practices are facilitated by the absence of any obligation for big multinational companies to report on where they make their profits and where they pay their tax in the EU on a country-by-country basis."*

The provisional text will now be submitted to the Council and the Parliament for political endorsement. If endorsed, Council will then adopt its position at first reading on the basis of the agreed text. The European Parliament should then approve that Council's position and the directive will be deemed to have been adopted. Member States will have eighteen months to transpose the directive into national law. Four years after the date of its transposition, the Commission shall report on the application of the directive.

Register Now: CFE Academy Webinar on Tax & Technology - 29 July 2021

CFE's July 2021 webinar in the CFE Tax Academy Series is the second in a planned series of webinars examining issues relating to tax and technology. The next webinar will take place on 29 July 2021 at 16:00 CEST on the topic of the use of central bank backed digital currency and current taxation practices relation to e-money. More information concerning registration for this event is available here.

The first webinar in the series examined the topic of "Cryptocurrency & Digital Regulation Developments for Tax Advisers", discussing notable developments in the cryptocurrency and e-assets sphere for tax advisers to be aware of, the Digital Transformation process in the UK, Europe and in Italy, as well as Sustainable Transition and how technology can be of help to it. Speakers' presentation slides are available at the following link.

EU Addressing the Debt-Equity Tax Bias (DEBRA)

The European Commission has published an inception impact assessment seeking feedback on the initiative to reduce the debt- equity tax bias in the EU, as part of the recent corporate tax reform proposal within the Communication for Business Taxation of the 21 Century.

It is widely acknowledged in the academic literature that the debt-equity tax bias is highly distortive of investment decisions. Interest as a return on debt is tax planning efficient, whereas similar tax benefits are ordinarily not in place for equity investment. As a result, companies often become highly leveraged for taxation purposes, which hinders innovative investment through equity whilst piling debt. At present tax legislation of only six EU Member states includes some form of allowance for corporate equity (ACE). An ACE would retain the deduction for interest expenses but would also add a similar deduction for the

normal return on equity.

The Commission is seeking feedback on two proposed options:

- Disallowing the deductibility of interest payments, or creating an allowance for equity (ACE) by enabling the tax deductibility of notional interest for equity;
- Introducing allowance for a notional interest deduction on all corporate equity, new corporate equity or corporate capital (equity and debt).

A public consultation questionnaire concerning the initiative will be launched in the coming weeks, and feedback can be submitted on the inception assessment document until 12 July midnight CEST.

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