



BRUSSELS | APRIL 2019

## 1. India Opens Consultation on Attribution of Profits to Permanent Establishments (PEs)

On 18 April India's Central Board of Direct Taxes (CBDT) issued a [public consultation](#) (Notice F. No. 500/33/2017-FTD.I) on the proposed amendment of India's tax rules on permanent establishment (PE) profit attribution.

The consultation requests feedback on recommendations by a committee commissioned by the CBDT to examine the issues related to Profit Attribution to Permanent Establishment (PE) in India and Amendment of Rule 10 of Income-tax Rules, 1962. The proposals depart from the OECD standard profit attribution methodology based on functions, assets and risks, which India considers harmful to developing countries.

Public comments are due in writing within 30 days of the foregoing notice.

## 2. International Fiscal Association Tax Conference in Warsaw on 22-24 May

The International Fiscal Association (IFA) European Regional Conference 2019 entitled "Current challenges to income and VAT taxation" will be held in Warsaw, Poland, on 22-24 May 2019. The conference focuses on the recent regulatory developments resulting from BEPS and ATAD implementation as well as local attempts to prevent tax evasion on income and indirect taxation. The conference will also discuss the practical adoption of the MLI in bilateral double taxation treaties.

The Warsaw Conference has already attracted considerable interest from more than twenty European IFA branches, with a number of relevant authorities and organisations joining the project, including the OECD, the European Commission, the European Association of Tax Law Professors (EATLP), CFE Tax Advisers Europe (CFE) and tax administration representatives.

More detail concerning the registration process is available [here](#).

### 3. Gambia Deposits Instrument of Ratification for African Continental Free Trade Area Agreement

The African Continental Free Trade Area (AfCFTA) Agreement is a trade agreement between African Union member states, with the goal of creating a single continental market for goods and services, followed by free movement of businesspersons and investments, and a single-currency union.

The AfCFTA Agreement will enter into force 30 days after 22 instruments of ratification have been deposited with the Chairperson of the African Union Commission (AUC) – the designated depositary for this purpose. This is an essential step for the AfCFTA to enter into force.

On 02 April 2019, Gambia became the 22nd country to complete the domestic process required, in terms of its Constitution, to ratify the AfCFTA. To complete the ratification process, it needs still to deposit its instrument of ratification with the AUC Chairperson.

So far, 52 countries have signed the AfCFTA agreement and 22 countries have ratified the agreement as of 02 April 2019; 7 countries including Gambia have received parliamentary approval for ratification but are yet to deposit instruments with AUC. In terms of numbers of participating countries, the AfCFTA will be the world's largest free trade area since the formation of the World Trade Organization.

### 4. FATCA Agreement Between Serbia and United States

The United States Treasury Department has released [the Model 1 Intergovernmental Agreement \(IGA\)](#) that the US signed with Serbia on 10 April 2019 for implementation of the Foreign Account Tax Compliance Act (FATCA).

The agreement is based on [the non-reciprocal Model 1B Agreement \(No TIEA or DTC\)](#). Accordingly, financial institutions in Serbia will be required to report tax information about US account holders to the government of Serbia, which will forward that information to the US Internal Revenue Service (IRS) on an automatic basis.

The IGA will enter into force on the date of Serbia's written notification to the United States that it has completed its necessary internal procedures for entry into force of the IGA.

With its signature, Serbia joins over 110 jurisdictions that have collaborated with the United States in fostering greater tax compliance.

### 5. Mexico Publishes General Rules on Compliance of Anti-Money Laundering Obligations

On 16 April 2019, the Mexican Tax Administration Service (SAT) published [General Rules on the implementation of programmes facilitating voluntary compliance with anti-money laundering obligations](#) in its Official Gazette.

The Federal Revenue Law for fiscal year 2019 provided the SAT with powers to authorise the regularisation of taxpayers' situations in case of non-compliance with the obligations arising from the Mexican Anti-Money Laundering Law.

According to the General Rules, taxpayers who failed to comply with such obligations from 1 July 2013 to 31 December 2018 may submit a regularisation programme to the SAT within 30 business days from the date on which the General Rules enter into force. Once authorised by the SAT, taxpayers must comply with the regularisation programme within six months, in which case the SAT will not impose any penalty related to the above-mentioned obligations.

The General Rules enter into force 45 business days after their publication in the Official Gazette.

## 6. UN Tax Committee Releases Proposed Updates to Model Tax Treaty in Advance of Meeting

The United Nations released six documents on 03 April in advance of the 18th session of the UN Committee of Experts on International Cooperation in Tax Matter, held on 23-26 April in New York.

The documents included:

- A [paper](#) discussing possible updates to the UN Model Double Taxation Convention between Developed and Developing Countries commentary on permanent establishments;
- A subcommittee [paper](#) presenting a high-level discussion of the issue of beneficial ownership. The paper notes that in 2014 beneficial ownership was clarified in the OECD model treaty;
- A [paper](#) providing two draft chapters for a handbook on carbon taxation under development by the committee. The chapters address the design of a carbon tax and administrative issues arising from the introduction of a carbon tax;
- A [chapter](#) on the tax treaty mutual agreement procedure for the proposed United Nations Handbook on Dispute Avoidance and Resolution. The chapter will be presented for discussion and final approval at the committee meeting.
- [A revised version of the Manual on the Negotiation of Tax Treaties between Developed and Developing Countries](#). The Committee of Experts will be asked to approve this version of the manual at their meeting.
- A note by the Secretariat, titled "Follow-up note on the role of taxation and domestic resource mobilization in achieving the Sustainable Development Goals". The note concludes that the work of the Committee of Experts can further assist all countries in their efforts to implement the 2030 Agenda and the Addis Ababa Action Agenda by helping to generate clear, evidence-based policy guidance on how to support the pursuit of sustainable development through taxation in the broader context, beyond domestic resource mobilisation.

## 7. Dominica Joins International Efforts Against Tax Evasion and Avoidance

On 25 April, at the OECD Headquarters in Paris, the Ambassador of Dominica to the European Union signed the [Multilateral Convention on Mutual Administrative Assistance in Tax Matters](#) in the presence of the OECD Deputy Secretary-General. Dominica is the 128th jurisdiction to join the Convention.

The Convention enables jurisdictions to engage in a wide range of mutual assistance in tax matters: exchange of information on request, spontaneous exchange, automatic exchange, tax examinations abroad, simultaneous tax examinations and assistance in tax collection. It guarantees extensive safeguards for the protection of taxpayers' rights.

Beyond the exchange of information on request and the automatic exchange pursuant to the Standard, the Convention is also a powerful tool in the fight against illicit financial flows and is a key instrument for the implementation of the transparency standards of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project.

## 8. OECD Invites Public Comments on Draft Report on Tax Morale

The OECD has invited public comments on a draft report which analyses the factors that contribute to tax morale and the modality to improve the revenue collection mechanisms through voluntary compliance. This report specifically focuses on tax morale in developing countries, using recent data to help identify the drivers of tax morale among individuals and businesses.

Interested parties are invited to send their comments by no later than 10 May 2019, to [taxanddevelopment@oecd.org](mailto:taxanddevelopment@oecd.org) in Word format. All comments submitted should be addressed to the OECD Centre for Tax Policy and Administration.

## 9. New Australian Tax Avoidance Laws Significantly Increase Tax Revenue

On 05 April, the Australian Taxation Office (ATO) revealed the latest results of its ongoing tax avoidance measures, the 2016 multinational anti-avoidance law and the 2017 diverted profits tax.

The multinational anti-avoidance law is designed to stop multinationals from avoiding Australian tax by selling goods in Australia but billing them to an offshore entity, while the diverted profits tax was introduced in mid-2017, designed to stop multinationals from shifting profits offshore using complex internal structures in order to avoid Australian tax.

ATO deputy commissioner Jeremy Hirschhorn confirmed that the ATO was also considering applying to the diverted profits tax a tax penalty of 40% to address tax avoidance, in particular by a “handful” of companies with global income of \$1bn or more.

According to the ATO, the new tax avoidance laws have forced 44 multinational companies to repatriate around \$7bn each year in sales to Australia.

## 10. Luxembourg ratifies the multilateral BEPS convention

On 09 April, Luxembourg deposited its instrument of ratification for the OECD [Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting](#). The BEPS convention aims to combat tax avoidance by multinational enterprises (MNEs) through prevention of Base Erosion and Profit Shifting (BEPS).

The BEPS multilateral instrument was negotiated within the framework of the OECD G20 BEPS project and enables countries and jurisdictions to swiftly modify their bilateral tax treaties to implement some of the measures agreed. The MLI entered into force on 1st July 2018.