BRUSSELS | 12 JUNE 2023

CFE Statement on EU Parliament Pandora Papers Report

The CFE has issued an Opinion Statement on the European Parliament Draft Report on Lessons Learned from the Pandora Papers and Other Revelations, ahead of the EU Parliament plenary debate and vote scheduled for 14 and 15 June. CFE Tax Advisers Europe values the continued efforts and contribution of the European Parliament, in particular the Subcommittee on Tax Matters (FISC) and the Committee of Economic and Monetary Affairs (ECON) in promoting better transparency, accountability and integrity of our tax systems.

CFE has contributed to the public debate and the expert hearings organised by the European Parliament in exploring ways in which tax professionals can contribute to these objectives as well as to strengthen the integrity and robustness of the fiscal systems for the benefit of the European economy, society, its citizens and taxpayers. We will continue to support the EU

institutions in these important endeavours. In this spirit, we wish to provide remarks on the findings of the report, hoping these may be of assistance to the MEPs and the Parliament in their deliberations.

CFE acknowledges the change in attitudes and practices which has been driven by policy-makers in the last decade. It has been achieved via cumulative steps at international level, particularly through the OECD and then through EU and national measures. They were undoubtedly bolstered by the need to respond to the 2008 financial crisis and its aftermath, which introduced austerity for many. Policymakers were prompted by a dual concern: the revenue lost to national treasuries from such tax planning and the growing concerns among electorates about accountability for fair and equal treatment of taxpayers and the "social contract" that exists between companies, their employees and the public services they avail of. CFE believes that it is possible to make a substantive contribution to addressing the problem of abusive tax arrangements by setting a quality bar for ethical judgment in tax advice. The focus of the quality bar is on the qualitative reflections of tax advisers when exercising their professional judgment. Taking into consideration the many differences in national contexts across Europe in relation to the roles and responsibilities of tax advisers, as well as the tax and legal systems and national cultures in which they operate, achieving a single, Europe-wide code or piece of professional guidance on ethical judgment in the provision of tax advice could be difficult to achieve. However, the concept of a quality bar would be sufficiently agile as well as practically adaptable to make a real impact across different environments and over time.

CFE believes that an ethics quality bar could help to ensure that ethics is appropriately considered in the exercise of professional judgment. Specifically, it can assist in relation to the question "If it is legal, is it acceptable?" by ensuring that the exercise of professional judgment is steered against advice which is abusive within legal parameters. CFE envisages that this steering can

be achieved via tax advisers' asking themselves the five key questions, as set out in our paper, when preparing and providing advice to clients – on the basis that the advisers respond to the answers generated by the questions appropriately. The key questions will be particularly relevant in situations where client expectations of tax planning denote an enhanced risk of potentially abusive arrangements.

It is important to bear in mind not only that tax advisers do not work in a vacuum but also that there are significant differences between tax advisers. While many are members of a professional body, such as the members of CFE member bodies, some are subject to mandatory regulation, some accept voluntary regulation, and a significant number are unregulated and without affiliation to a professional body, in a context where most European countries do not impose market access rules for the provision of tax advice. Our paper concerns the professional behaviour of all advisers, whatever their status.

We invite you to read the statement and remain available for any queries you may have.

CFE Opinion Statement on Official Ruling 57:2023 of the Italian Central Tax Office on Intervening Fixed Establishments in a VAT Context

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The CFE has issued an Opinion Statement on Official Ruling 57/2023 given by the Italian Central Tax Office.

This Opinion Statement explains the views of CFE Tax Advisers Europe concerning the Official Ruling 57/2023 given by the Italian Central Tax Office (Agenzia delle Entrate – Divisione Contribuenti – Direzione Centrale Grandi

Contribuenti e Internazionale) on 17 January 2023 on intervening fixed establishments in a VAT context. CFE is issuing this Statement because we consider that it is material to the correct treatment of intra-Community supplies.

We invite you to read the statement for further analysis and remain available for any queries you may have.

EU Parliament Position on EU AI Act

The European Parliament relevant committees have agreed a negotiating position on the EU AI Act, which if voted, will become the first comprehensive global standard setting out a regulatory framework on Artificial Intelligence (AI). This press release from the European Parliament comes amid journalistic reports that many issues remain to be agreed.

The original Commission proposal for an EU AI Act lays down rules for a proposed legal framework for the development, supply and use of AI products and services in the EU. The proposal proposes to introduce a technology-neutral definition of AI systems in EU law and to lay down a classification for AI systems with different requirements and obligations tailored on a 'risk-based approach'.

Key changes provisionally agreed by Parliament are the following:

- **Definition:** Parliament amended the definition of AI systems to align it with the definition agreed by the Organisation for Economic Co-operation and Development (OECD).
- **Prohibited practices:** Parliament substantially amended the list of AI systems prohibited in the EU. Parliament wants to ban the use of biometric identification systems in the EU for both real-time and ex-post

use (except in cases of severe crime and pre-judicial authorisation for ex-post use) and not only for real-time use, as proposed by the Commission. Furthermore, Parliament wants to ban all biometric categorisation systems using sensitive characteristics (e.g. gender, race, ethnicity, citizenship status, religion, political orientation); predictive policing systems (based on profiling, location or past criminal behaviour); emotion recognition systems (used in law enforcement, border management, workplace, and educational institutions); and AI systems using indiscriminate scraping of biometric data from social media or CCTV footage to create facial recognition databases.

- **High-risk AI systems:** While the Commission proposed to automatically categorise as high-risk all systems falling in certain areas or use cases, Parliament adds the additional requirement that the systems must pose a 'significant risk' to qualify as high-risk. AI systems that risk harming people's health, safety, fundamental rights or the environment would be considered as falling in high-risk areas. In addition, AI systems used to influence voters in political campaigns and AI systems used in recommender systems displayed by social media platforms designated as very large online platforms under the Digital Services Act would be considered high-risk systems. Furthermore, Parliament imposes on those deploying a high-risk system in the EU an obligation to carry out a fundamental rights impact assessment, including a consultation with the competent authority and relevant stakeholders.
- **General-purpose AI:** Parliament wants to enshrine a layered approach in the AI act to regulate general-purpose AI systems. Parliament wants to impose an obligation on providers of foundation models to ensure robust protection of fundamental rights, health, safety, the environment, democracy and the rule of law. They would be required to assess and mitigate the risks their models entail, comply with some design, information and environmental requirements and register such models in an EU database. Furthermore, generative foundation AI models (such as

ChatGPT) that use large language models to generate art, music and other content would be subject to stringent transparency obligations. Providers of such models and of generative content would have to disclose that the content was generated by AI not by humans, train and design their models to prevent generation of illegal content and publish information on the use of training data protected under copyright law. Finally, all foundation models should provide all necessary information for downstream providers to be able to comply with their obligations under the AI act.

- **Governance and enforcement:** National authorities' competences would be strengthened, as Parliament gives them the power to request access to both the trained and training models of the AI systems, including foundation models. Parliament also proposes to establish an AI Office, a new EU body to support the harmonised application of the AI act, provide guidance and coordinate joint cross-border investigations. In addition, Members seek to strengthen citizens' rights to file complaints about AI systems and receive explanations of decisions based on high-risk AI systems that significantly impact their rights.
- **Research and innovation:** To support innovation, Parliament agrees that research activities and the development of free and open-source AI components would be largely exempted from compliance with the AI act rules.

Register Now: "*A Gender Equal Tax System in Europe: Reflections for a New Agenda"* - 4 July 2023, EU Parliament

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Registration is now available via the European Parliament InfoHub website for the 4 July 2023 event (panel discussion) on the topic of *"European Values: A Gender Equal Tax System in Europe: Reflections for a New Agenda"*. The event is organised by CFE Tax Advisers Europe, the ICAEW Women in EU

Finance Network and PwC, kindly supported by the European Parliament.

A number of panelists from the OECD and the EU have been confirmed, with key-note speeches from OECD's newly appointed Deputy Secretary-General Fabrizia Lapecorella and Member of Parliament Kira Marie Peter Hansen MEP; Michelle Harding from the OECD CTP; Ana Xavier and Helena Malikova from the European Commission, a representative of the European Parliament regarding the EU 2024 elections campaign, as well as colleagues from practice and the organising bodies.

Gender equality in fiscal affairs is a matter of fairness, well-being and growth. While the EU has taken steps to include a gender perspective in all stages of policy design significant challenges remain – including when it comes to tax. The structure and administration of tax systems often still have different impacts on gender. As the EU starts to look ahead towards a new legislative term, what would it take to establish a truly inclusive tax system by 2030? What needs to be done to ensure that future changes to tax systems help drive gender equality as well as responding to Europe’s green, digital and growth ambitions? Speakers will offer views and reflections on a pathway towards a more gender equal tax system by 2030, and address questions such as: what are the key features of tax system designed to help reduce gender inequality and what is lacking today; what do policymakers and tax administrations need to do to in the next EU legislative period to build a tax system that is gender equal, green, digital and competitive; and, what lessons can be learnt from international best practice.

Global Forum Develops Model Administrative Compliance Strategy for Automatic Exchange of Information

As part of its Strategy to unleash the potential of AEOI for developing countries, the Global Forum Secretariat is developing toolkits and e-learning courses to facilitate the implementation of the AEOI standard. As such, it has developed a Model Administrative Compliance Strategy in order to *"assist jurisdictions in developing, improving and implementing their own administrative compliance strategy to ensure the effectiveness of the Standard for Automatic Exchange of Financial Account Information in Tax Matters (AEOI)."*

The Model Strategy, the CRS Notification Tracking tool, and the Methodology for implementation of the risk-based approach have all been launched this year, and complement the Toolkit for the Implementation of the Standard for Automatic Exchange of Financial Account Information, which was released in 2021.

The assessment tool and its user guide are available on demand to all interested jurisdictions in English. French and Spanish versions will be made available in due course.

The selection of the remitted material has been prepared by:
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